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UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1995

Addendum

INDIA

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CONTENTS

		Paragraphs	Page
Introduction		1 - 27	3
I.	GENERAL MEASURES OF IMPLEMENTATION	28 - 64	9
II.	DEFINITION OF THE CHILD	65 - 69	15
III.	GENERAL PRINCIPLES	70 - 94	17
IV.	CIVIL RIGHTS AND FREEDOMS	95 - 120	23
V.	FAMILY ENVIRONMENT AND ALTERNATIVE CARE	121 - 154	28
VI.	HEALTH, NUTRITION AND CHILD CARE	155 - 219	35
VII.	EDUCATION, LEISURE AND CULTURAL ACTIVITIES	220 - 260	50
VIII.	SPECIAL PROTECTION MEASURES	261 - 315	59
IX.	CONCLUSION	316 - 319	72

Annexes*

1. States and Union territories by population size
2. Child population in India
3. Child indicators
4. Life expectancy at birth
5. Infant mortality rates in rural and urban India
6. Prevalence of malnutrition among children (1-5 years)
7. Total literacy rate by sex
8. Elementary education in India: progress of enrolment
9. Drop-out rates in classes I-V
10. Drop-out rates in classes VI-VIII
11. State plans of action for children

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* Available for consultation in the files of the Secretariat.

Introduction

Land and people

1. The Indian subcontinent covers an area of 3,287,263 square kilometres and is bound in the north by the Himalayas towering over the Gangetic plain, in the south by the Deccan Plateau, in the east by the Bay of Bengal and in the west by the Arabian Sea. The countries having a common border with India are Afghanistan and Pakistan to the north-west, China, Bhutan and Nepal in the north and Myanmar and Bangladesh in the east. Sri Lanka in the south is separated by a narrow channel of sea formed by the Palk Strait and the Gulf of Mannar. India is the seventh largest country in the world with 26 states and 6 Union territories, reflecting not only geographical but also a rich cultural diversity. It is a land of 844 million people (1991 Census), of which 628.7 million live in rural India. Religion is an important dimension of Indian culture and varied religious groups have thrived together from time immemorial in this secular State. The principal religious groups are Hindu, Muslim, Christian, Sikh, Buddhist and Jain; 82 per cent of the population are Hindu.

2. The population is not evenly distributed over the country. Almost 63.7 per cent of the population live in 31.45 per cent of the total area. The two states of Kerala and West Bengal have the highest population density (750 per square kilometre) followed by Bihar and Uttar Pradesh. The north-eastern states have relatively low density of population. The states of Madhya Pradesh, Rajasthan, Karnataka, Orissa and Maharashtra in the central part of India have a density below the national average of 267 people per square kilometre. Shifts in population due to migration from rural to urban areas in recent years have further aggravated the problems of density in urban conglomerates. The 10 most densely populated urban centres in the country are Calcutta, Madras, Greater Bombay, Hyderabad, Delhi, Chandigarh, Mahe, Howrah, Kanpur and Bangalore, where the average density is 5,791 persons per square kilometre.

3. India's population growth has been largely influenced by fertility and mortality trends. The birth rate, from a level of slightly below 50 at the beginning of the century, had fallen to 29 by 1992. One striking feature of the age patterns of fertility in India is the large number of births to adolescent mothers. In 1984, 9.8 per cent of all the births in India occurred to women less than 20 years of age. Also, 19 per cent of the births to mothers aged 15 to 19 were of order more than one.

4. The most notable event in this regard over the past 90 years has been the decline in mortality from a level of over 40 per thousand at the beginning of the century to the current level of about 10. There is little doubt that the massive investments in health, sanitation, water supply, etc. have directly contributed to this steep fall in death rates. The improvement in mortality is reflected in the increase in the expectation of life at birth, which at the beginning of the century was around 23 years but has now more than doubled for both males (60.6) and females (61.7).

5. The population of India is young, consisting of nearly 36 per cent of children below 15 years. Thus, two out of every five persons are below 15 years. The total child population in India in 1991 was about 302 million, which is more than the population of most countries of the world. Children constitute the nation's future human resource. A young population imposes certain constraints in terms of investment decisions, particularly relating to education, nutrition and child health.

The child in India: a cultural and historical overview

6. India's commitment to the cause of children is as old as its civilization. The child is believed to be a gift of the Gods, that must be nurtured with care and affection, within the family and the society. Unfortunately, due to socio-economic factors, the incidence of neglect, abuse and deprivation, particularly in the poverty afflicted sections of the society, has gradually increased.

7. Such a scenario made it imperative to intervene to provide care and protection to children. The setting up of extra-familial institutions to provide care to the young, both in the governmental and voluntary sectors, became essential. In the mid-1920s, voluntary organizations such as the Indian Red Cross Society, the All India Women's Conference, the Kasturba Gandhi National Memorial Trust and the Children's Aid Society organized programmes in the areas of welfare, health, nutrition and education for children. Balkanji Bari, set up in 1920, was the first children's organization with child membership. Several other organizations were set up around this time, but these were on a sectarian basis, such as the All India Shia Orphanage, the Bai Dosabai Kotwari Pasi Orphanage, etc.

8. In India, independence ushered in a new era in the field of child welfare and child development. The past 47 years have been marked by events which are a testimony to our commitment towards children. Adequate provisions were also made for the protection, development and welfare of children in the Indian Constitution. Article 24 prohibits the employment of children in any factory or mine or in any other hazardous occupation. Article 39 (e) and (f) lays down that the State shall direct its policy in such a manner that the tender age of children is not abused and children are given opportunities and facilities to develop in a healthy manner and childhood is protected against exploitation and against moral and material abandonment. Education of children has been recognized as a sine qua non for the growth of children. Accordingly, article 45 lays down that the State shall provide free and compulsory education for children up to the age of 14 years.

9. A wide range of laws guarantees to a substantial extent the rights and entitlements provided for in the Constitution and in the Convention on the Rights of the Child:

The Apprentices Act, 1861;

The Child Marriage Restraint Act, 1929;

The Child Labour (Prohibition and Regulation) Act, 1986;

The Children (Pledging of Labour) Act, 1929;

The Guardian and Wards Act, 1890;

The Hindu Minority and Guardianship Act, 1956;

The Hindu Adoption and Maintenance Act, 1956;

The Immoral Traffic (Prevention) Act, 1956;

The Juvenile Justice Act, 1986;

The Orphanages and Other Charitable Homes (Supervision and Control) Act, 1960;

The Probation of Offenders Act, 1958;

The Reformatory Schools Act, 1897;

The Women's and Children's Institutions (Licensing) Act, 1956;

The Young Persons (Harmful Publications) Act, 1956;

The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992;

The Prenatal Diagnostic Technique (Regulation, Prevention and Misuse) Act, 1994;

The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

Apart from these laws mainly concerning children, a host of related welfare and criminal laws have beneficial provisions for the care and protection of children. Even the laws relating to commerce, industry and trade have protective provisions for children.

10. A very significant development was the establishment of the Central Social Welfare Board in 1953. The Board was set up to assist voluntary organizations and mobilize their support and cooperation in the development of social welfare services, especially for women and children. At that time, most voluntary welfare organizations were located in urban areas. In 1954, the Board launched the welfare extension projects (WEP) to cater to the rural population. The activities under the WEP included maternal and child-care services, pre-school education, social education and craft training for women.

11. It was during this decade that the Declaration on the Rights of the Child was adopted by the United Nations General Assembly. This Declaration was accepted by the Government of India, thus affirming its concern for children. In order to meet these obligations, concerted measures have been taken at the national level to ensure the survival, protection and development

of children. As part of five-year plans, several programmes have been launched by the Government which are aimed at providing services to children in the areas of health, nutrition and education.

12. The adoption of the National Policy for Children in 1974 was a landmark. This policy lays down that the State shall provide adequate services to all children, both before and after birth and during the growing stages, for their full physical, mental and social development. The measures suggested included, among others, a comprehensive health programme, supplementary nutrition for mothers and children, nutrition education of mothers, free and compulsory education for all children up to the age of 14 years, non-formal pre-school education, promotion of physical education and recreational activities, special consideration for the children of weaker sections like the scheduled castes and the scheduled tribes, prevention of exploitation of children and special facilities for children with various types of handicap.

13. Given the magnitude of the problems of children, the Policy suggested that preventive and promotional programmes for child health, nutrition for children below the age of six, care of destitute children, day-care facilities and rehabilitation of handicapped children should be accorded high priority. The Policy provided for a National Children's Board to act as a forum to plan, review and coordinate the various services directed towards children. The Board was set up in 1974.

14. The Policy succeeded in highlighting various areas of child development and securing their acceptance as major areas for programme planning. Another outcome was the setting up of a Bureau for Nutrition and Child Development in the then Ministry of Social Welfare which was responsible for implementation of the Policy and the various programmes resulting from it. The Board was also expected to promote public awareness about the needs of children and was responsible for coordinating and integrating the efforts of various agencies according to the priorities laid down in the Policy.

15. The National Children's Fund was instituted by the Government to provide financial assistance to voluntary organizations for undertaking innovative child welfare programmes.

16. It was around 1974 that the perspective of "integration" began to dominate government thinking. Efforts were made to examine the feasibility of integrating early services for children covering supplementary nutrition, immunization and health care, which included referral services, nutrition, education of mothers, pre-school education, family planning and provision of safe drinking water. These efforts led to the development of a new package of integrated child development services (ICDS), covering children less than six years old and nursing and expectant mothers. Launched in 1975, ICDS continues to be the major governmental programme for early childhood survival and development intervention, benefiting over 18 million children and around 5 million pregnant and nursing mothers. The programme has now been universalized, in March 1996, to cover all community development blocks in the country, thus extending the coverage to 5,320 such blocks and 310 major urban slums. In each ICDS project there are on average 130 child development centres called Anganwadi centres (AWCs). The child development project officer (CDPO) is in charge of one ICDS project. An ICDS project has seven

supervisors who are responsible for the implementation of ICDS in 20 AWCs. At the grass-roots level, one AWC is managed by one Anganwadi worker and one Anganwadi helper with the assistance of an auxiliary nursing midwife (ANM). An Anganwadi worker/ANM provides services to about 60 children below six years of age and 12 pregnant and nursing mothers. An amount of Rs 1,456 million per year is required for the maintenance costs per project. The effective universalization of the ICDS scheme will be achieved by the first year of the Ninth Plan when all the 1,668 new projects will become fully operational. The scheme would thus provide vital services to over 52.4 million beneficiaries, including 43.7 million children and 8.7 million pregnant mothers. It has been noted that as a result of the ICDS programme, a faster decline in the incidence of infant and early childhood mortality in the ICDS project areas has been reported. Similarly, there was better utilization of vitamin A, iron, folic acid and immunization services in the ICDS project areas.

17. Another landmark in the 1970s was the setting up of the National Institute of Public Cooperation and Child Development (NIPCCD) in 1975 as an autonomous body. It was identified as an apex body for the training of ICDS functionaries. It also assists the Government in all technical matters relating to child development and the promotion of voluntary action in social development.

18. The Department of Women and Child Development was set up in the Ministry of Human Resource Development in 1985 to ensure the development of women and children - the two most vulnerable segments of our population. The Department, besides the ICDS, implements several other programmes, undertakes advocacy and intersectoral monitoring, catering to the needs of women and children. The various activities are implemented not only through state governments and Union territory administrations but also by assisting voluntary organizations, as partners, in providing services aimed at the development and empowerment of women and children.

19. Since the inception of the South Asian Association for Regional Cooperation (SAARC) in 1985, issues concerning children have been high on the organization's agenda and receive the highest priority in national development planning. Membership of SAARC has, thus, further reaffirmed India's commitment to child development. The SAARC member nations committed themselves to universal child immunization by the end of 1990. The other goals were universal primary education, adequate maternal and child nutrition and safe drinking water by the year 2000. The momentum generated by the first SAARC Conference on Children, in 1980, contributed to the convening of the World Summit for Children in New York in September 1990. It also led to annual reviews of the situation of children in South Asia, as well as the declaration of 1990 as the SAARC Year of the Girl Child and 1991-2000 as the Decade of the Girl Child.

20. The Eighth Five-Year Plan of India recognized "Human development" as the core of all developmental efforts. The priority sectors of the Plan that contribute towards realization of this goal are health, education, literacy and basic needs, including drinking water, housing and welfare programmes for the weaker sections. Further, child survival and development have received high priority. In the last decade of this century, dramatic technological

developments, particularly in health, nutrition and related spheres, have opened up new vistas of opportunities for redeeming our age-old pledges to the cause of children.

21. It is against this backdrop that India joined the comity of nations in the successive reaffirmations of global commitment to the cause of children. The Convention on the Rights of the Child in November 1989, the World Conference on Education for All at Jomtien in March 1990, the Global Consultation on Water and Sanitation in September 1990, the World Summit for Children in the autumn of 1990 and the SAARC Summit on Children soon after the World Summit were all part of this reaffirmation process which transcended national barriers. India is a signatory to the World Declaration and its Plan of Action for Children (September 1990). By endorsing the 27 survival and development goals for the year 2000 laid down by the World Summit, India has reiterated its resolve to advance the cause of children in India. In pursuance of this, the Department of Women and Child Development, under the Ministry of Human Resource Development, formulated the National Plan of Action for Children in 1992.

National Plan of Action for Children

22. The National Plan of Action has been worked out keeping in mind the needs, rights and aspirations of over 300 million children in the country and sets out quantifiable time dimensions for India's Charter of Action for Children by 2000 A.D. mid-decade goals in selected areas have also been adopted. The priority areas in the National Plan of Action are health, nutrition, education, water, sanitation and environment. The Plan gives special consideration to children in difficult circumstances and aims at providing a framework, through its goals and objectives, for the implementation of the Convention in the Indian context. It also lists activities to achieve these goals. To make the goals, objectives and activities of the Plan more need-based and area-specific, the central Government has urged all the state/Union territory governments to prepare plans of action for children for their states/Union territories, taking into account the regional disparities that may exist. Accordingly, almost all the major states have adopted state plans of action for children. The mid-decade and decade goals are being constantly monitored by a high-powered inter-ministerial committee in the Department of Women and Child Development.

23. The Government of India ratified the Convention on the Rights of the Child on 2 December 1992. Accordingly, the Government took various initiatives to review the national and state legislations to bring them into line with the provisions of the Convention, develop appropriate monitoring procedures to assess progress in implementing the Convention, involve the concerned government ministries and departments, international agencies, non-governmental organizations and the legal profession in the implementation and reporting process to publicize the Convention, and seek public inputs for frank and transparent reporting.

24. A four-member team of the Committee on the Rights of the Child comprised of Ms. Marta Santos Pais, Special Legal Adviser for Human Rights, Mr. Uri Kolosov, Chair of International Law, Institute of International Relations, Ms. Hoda Badran, Secretary-General, Alliance for Arab Women,

Ms. Judith Karp, Deputy Attorney-General, Salah-a-Din, Jerusalem, Israel visited India from 4 to 7 October 1995 to see first hand the specific problems children faced and to interact with government officials, United Nations agencies, NGOs and others on the measures being taken to make child rights a reality. They were accompanied by Ms. Rebeca Rios-Kohn, Chief, Child Rights and Public Policy Section, UNICEF, New York.

25. The visiting team met government officials and called on Kum. Vimla Verma, the then Minister of State in the Department of Women and Child Development. The members also separately visited the various child labour projects in the states of Tamil Nadu, Rajasthan, Andhra Pradesh and Uttar Pradesh.

26. Following the visit of the four members of the Committee to India, UNICEF held a South Asia consultation on child labour in Kathmandu, which was shared with the Government of India, for joint advocacy and programming towards elimination of child labour within India and the South Asian region. The suggestions have been considered and incorporated in the Government's Plan of Action for the elimination of child labour, and followed up at the Third Ministerial Conference on Children in South Asia held recently in Rawalpindi, at which the Government's commitments were reaffirmed.

27. Another important outcome of the visit of the members of the Committee was the initiation in the country of a process to promote children's participation on issues concerning their rights and well-being - the "Voices of the children" campaign.

I. GENERAL MEASURES OF IMPLEMENTATION

A. Measures taken to harmonize national law and policy with the provisions of the Convention

28. In order to facilitate the phased and progressive process of implementing the Convention, India has taken a number of steps. Some of the major ones are mentioned below.

1. At the central level

29. The Ministries/Departments of the Government of India concerned with various provisions of the Convention namely, inter alia, the Ministry of Health and Family Welfare, the Department of Education, the Department of Revenue (Ministry of Finance), the Ministry of Defence, the Ministry of Information and Broadcasting, the Ministry of Home Affairs and the Ministry of Welfare had initiated the process of examining the relevant articles with a view to taking the necessary measures to incorporate the provisions of the Convention in their programmes and activities. Various sectors have strengthened and refined their schemes with a view to providing effective services to ensure the welfare and development of children. The implications for legislative changes are being actively examined.

2. At the provincial level

30. The state governments are incorporating articles of the Convention on the Rights of the Child in their state plans of action for children. A number of schemes for the welfare and development of children have been strengthened and refined with a view to ensuring children their economic, political and social rights.

3. Networking with experts and non-governmental organizations

31. Reputed non-governmental organizations known for their dedication, adaptability and self-reliance have been partners of the Government in all programmes for the development of children and mothers. The valuable contributions of non-governmental organizations encompass a wide spectrum, ranging from their role in catalysing social change, organizing communities, training, communications, area-specific planning and management of services, to monitoring and evaluation.

32. The mobilization and greater involvement of non-governmental organizations in programmes for the development of children and women has increased the potential for accelerating the development process and achieving national goals for children, as outlined in the National Plan of Action for Children. Partnerships to promote voluntary action, especially in favour of the vulnerable young child, have strengthened the capacity of communities for achieving goals for children through sustainable participatory development approaches. This has also contributed to a wider recognition of such action as part of our collective responsibility to ensure that children realize their right to survival, development, protection and participation. Accordingly, their involvement in dissemination of information on children's rights, as well as in the preparation of the country report, was considered vital by the Government. A planned, phased process was set up to achieve this goal so as to ensure that the country report would actually reflect ground realities and progress made in translating policies and programmes into action at the grass-roots level.

33. The preparation of the country report has been an important step in the implementation and dissemination of the Convention. It has been a "participatory process" involving inputs from NGO representatives, activists, academics and professionals. In order to facilitate such an open consultative process, a three-day National Consultation Workshop was organized by the Indian Council of Child Welfare in collaboration with the Department of Women and Child Development and UNICEF in Delhi during November 1994. It provided a forum for discussion on major themes of the Convention. India's country report which has drawn extensively from these discussions, has been enriched with constructive suggestions given by the experts for full implementation of the rights of the child.

Review of laws in the light of the Convention and sensitizing the legal system to the Convention

34. The Convention vests an obligation on the State to review and revise all laws pertaining to children. Inherent in this commitment is also an obligation to review the manner in which existing laws are implemented. The

sensitization of all levels of the judiciary, the police and others dealing with children in conflict with the law is also necessary to ensure achievement of children's rights.

35. Various processes along these lines were initiated from the time the Convention came into force in 1989. The National Law School of India University, a leading centre for teaching and research in law, organized a seminar at Bangalore on the Convention in 1990. With India's ratification of the Convention, these processes found further momentum. A major forum where children's rights found expression was the International Conference on Shaping the Future by Law, held in New Delhi in March 1994. This Conference resulted in:

High visibility for children's rights, with affirmations by the President, the Prime Minister and the Chief Justice of the Supreme Court, a higher profile for children's issues in the media and emphasis on key issues like child labour and primary education;

Sensitization of the top levels of the judiciary (judges of the Supreme Court, chief justices of high courts).

36. The Conference also made a set of important recommendations for focused interventions to change the situation of children and ensure children's rights: the setting up of an "Alliance for the child" and an active body of persons in the field of law, with the Chief Justice of India as its chairperson; the review of all national legislation pertaining to the child; inclusion of laws pertaining to children in the syllabuses of law colleges all over the country; a campaign for immediate implementation of free and compulsory primary education; the active removal of children from bondage and all hazardous workplaces; and the revision of legislation to prohibit child labour. As a part of the deliberations, working groups were set up to review legislation, especially on child labour and compulsory education.

B. Mechanism for coordinating policies relating to children and for monitoring the implementation of the Convention

37. The Department of Women and Child Development in the Ministry of Human Resource Development of the Government of India has responsibility for coordinating the implementation of the Convention. Since subjects covered under the Convention fall within the purview of various government departments/ministries, an interministerial committee has been set up in the Department, with representatives from the concerned sectors, to monitor the implementation of the Convention.

C. Disseminating information on children's rights

38. Considering the size and diversity of the country, it was felt that information regarding children's rights could be usefully disseminated through state-level workshops. Eleven such workshops were held in Jaipur, Calcutta, Lucknow, Hyderabad, Bangalore, Pune, Jabalpur, Patna, Ahmedabad, Bhubaneswar and Chandigarh in the course of 1994. These state workshops have created a

broad awareness of children's rights, reflected in editorials and news reports in the press and coverage through radio and television, identifying local issues for closer attention.

1. Focusing on priority issues

39. The Convention has helped focus attention on certain priority issues affecting children, like child labour and compulsory education.

40. Raising the issue of the economic exploitation of children in different forums resulted in high visibility and public consciousness of the need to eliminate child labour.

41. Commitment by the Prime Minister on Independence Day in 1994 resulted in the formation of a scheme for the elimination of child labour from hazardous industries and the earmarking of substantial funds for this purpose with a time-bound target for implementation.

42. The Andhra Pradesh Judicial Academy held a Workshop on Elimination of Child Labour and the Convention on the Rights of the Child, resulting in enhanced coordination and interaction between the judiciary and enforcing departments on matters relating to child labour.

43. The Rugmark Foundation has been registered to encourage carpet exporters to eliminate child labour in that industry and recycle funds received from importers for the rehabilitation of children.

44. Significant initiatives have come from the non-governmental sector, like the South Asia Coalition Against Child Servitude action to obtain pledges from legislators on the elimination of child labour, and active campaigns for freeing children from bonded labour.

45. There is also a growing awareness regarding the importance of primary education. Tamil Nadu legislated for compulsory primary education in 1994. There are a number of initiatives at the national and regional levels aimed at the realization of the child's right to education.

46. A pledge in support of primary education was made by the Prime Minister, the Minister for Human Resources Development and representatives of industry, trade unions, educationists, voluntary groups and others, at the initiative of the Rajiv Gandhi Foundation in 1994.

47. The Common Minimum Programme of the present Government includes a commitment to provide universal primary education by the year 2000. This programme also provides that "special programmes will be launched to take care of children and the disabled and to eradicate child labour in all occupations and industries".

2. Advocacy and sensitizing key functionaries

48. A significant initiative inspired by the Convention is the effort to sensitize key functionaries to its provisions and implications.

49. Members of Parliament under the chairmanship of the Speaker met and highlighted the needs of the children and discussed remedial measures in 1994/95.

50. Chiefs of police of nine major cities met in Bangalore and resolved to include children's issues in the training of police personnel.

51. Pioneer national institutions like the Lal Bahadur Shastri National Academy of Administration, Mussoorie, and the Sardar Vallabhai Patel National Police Academy, Hyderabad, have introduced modules on children's issues in the training of Indian Administrative Services and Indian Police Service officers.

52. Workshops on the implementation of the Juvenile Justice Act 1986 were organized for groups of judicial officers and lawyers.

53. The Workshop on the Rights of the Child, Realities of Justice in Uttar Pradesh was held in Lucknow in 1994.

54. The National Conference on Public Interest Litigation held in Hyderabad, focused on the rights of this most vulnerable social group.

3. Partnership with the media

55. The media can be a powerful advocate for children and are central to promoting awareness and understanding of the Convention on the Rights of the Child. Article 42 refers to the States parties' obligations to inform adults and children of the provisions of the Convention. A number of initiatives were undertaken to make the principles and provisions of the Convention widely known by appropriate and active means to adults and children alike.

56. Radio and television have been highlighting children's issues regularly. All India Radio has broadcast a 15-episode serial on children's rights in the four major Hindi-speaking states. Radio and television producers have been oriented on children's issues with a desired perspective. A workshop on the Convention for the radio stations in the east and north-east was held in September 1994. These workshops have been continued in 1995 and 1996 covering other states. Programmes focused on children, including messages and information on the rights of the child are now regularly being telecast/broadcast. Spots on these issues are being televised on prime time on national television.

57. Media interventions on children's rights have also included special issues of Nai Disha (a Hindi newspaper) and Tamasha (a children's magazine) on the Convention. Media workshops on the Convention for newspaper editors and journalists were organized in Madras, Bhubaneswar, Cochin, Hyderabad and Calcutta.

58. The theme for National Children's Day 1994 was "Rights of the child: A commitment". All major newspapers carried articles as well as supplements on the issue, which was extensively covered in the media. A document entitled "Rights of the child: A commitment" was also brought out by the Department of Women and Child Development and has been disseminated widely. It has become a

reference for all those working for children, of their obligations and responsibilities in implementing the National Plan of Action and the Convention.

59. A survey of Indian newspapers over the past few years indicates a growing awareness of the concept of children's rights. Protection rights in such areas as child labour and child abuse have received great attention. Survival rights are covered particularly during an epidemic or emergency. However, in addition to the above rights, development rights, such as the right to primary education, have received greater focus in the media in the post-Convention era.

60. The absence of a focused communication strategy for child development was felt for some time. A strategy has now been formulated for bringing about appropriate advocacy, social mobilization and empowerment through coordinated action by all concerned with child welfare and development.

4. Promoting children's participation

61. The Convention places an obligation on countries to ensure participation of children in activities related to the Convention. Some special initiatives in this connection were: Essay Competition on Children's Rights by newspapers, Campaigns on Children's Rights in schools, Child to Child initiatives on education, Children's Rallies on the Convention on the Rights of the Child Day (20 November), painting and drawing competitions on Child Rights, Activity Weeks in cities around the theme of Children's Rights.

62. The "Voices of the Children" campaign has been initiated in the country with support from the Government and UNICEF with the objective to start the process for children's participation in all matters which concern their lives and to facilitate a manual for interested parties working with children in India. The different categories of children participating in the "Voices of the Children" campaign include street children, child labourers, tribal children, girl children, slum children, children on tea plantations, refugee children, children of commercial sex workers, children displaced for development projects, high school children and children of municipal primary schools. As part of the campaign, facilitators' workshops have been organized to give orientation on the rights of the child, objectives and the need and importance of the campaign. The facilitators are being trained to help children to express issues and concerns through different media, such as dance, theatre, story telling, the print media and structured or informal discussions.

5. Networking

63. Children's rights appear to be catching the imagination of the people in different parts of the country. Associations for the rights of children have been formed in some parts of the country. These bring together concerned citizens and NGOs to support activities focused on the needs of children. Initiatives have also been taken by industries, associations and youth bodies for extending assistance to child-welfare programmes and for support on issues like removal of child labour and child prostitution.

6. The Convention - a powerful advocacy instrument

64. It may be concluded that the process of sensitizing and mobilizing all sections of society around issues of children's rights has commenced in our country. The Convention revalidates the rights guaranteed to children by the Constitution of India and is therefore a powerful weapon to combat forces that deny these rights. There is a need to further support and strengthen people's initiatives around children's issues, collect and disseminate information, mobilize public opinion and build a climate for active interventions in support of children's rights.

II. DEFINITION OF THE CHILD

65. The Census of India defines persons below the age of 14 as children. While making use of standard demographic data, social scientists include females in the age group of 15 to 19 years in the category of the girl child. Most of the government programmes on children are targeted to the age group below 14 years. In accordance with the Constitution, no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment (article 23). The legal conception of a child has tended to vary depending upon the purpose. A few illustrations from the law in India are given below.

Criminal Law: Indian Penal Code	Nothing is an offence which is done by a child under the age of seven years. The age of criminal responsibility is raised to 12 years if the child is found to have not attained the ability of understanding the nature and consequences of his act. Attainment of 16 years of age for a girl is necessary for giving sexual consent, this is not less than 15 years if she is married.
Juvenile Law: Juvenile Justice Act, 1960	A juvenile is a child who has not completed the age of 16 years in the case of boys, or the age of 18 years in the case of girls. A delinquent juvenile cannot be sentenced to imprisonment. If a juvenile who has attained the age of 14 years commits an offence of a serious nature and it is found not to be in his interest or in the interest of other juveniles to send him to a special home, the juvenile court may order the delinquent juvenile to be kept in safe custody in such place and manner as it thinks fit. Detention in police stations or jails is specifically prohibited under the Act.
Family Law: Child Marriage Restraint Act, 1926	Child means a person who if a male has not reached 21 years of age and, if a female, has not reached 18 years of age.

Labour Law: Apprentice Act, 1961	A person is qualified to be engaged as an apprentice only if he is not less than 14 years of age, and satisfies such standards of education and physical fitness as may be prescribed.
Factories Act, 1948	A child below 14 years of age is not allowed to work in any factory. An adolescent between 15 and 18 years can be employed in a factory only if he obtains a certificate of fitness from an authorized medical doctor. A child between 14 and 18 years of age cannot be employed for more than four and a half hours.
Mines Amendment Act	No person below 18 years of age shall be allowed to work in any mine or part thereof.
The Child Labour (Prohibition and Regulation) Act, 1966	Child means a person who has not completed his fourteenth year of age.
Army Headquarters Regulations	The age of recruitment in the Army is from 16 to 25 years. Persons who are recruited at the age of 16 years undergo basic military training for up to two and a half years from the date of enrolment and are then inducted into regular service.
Indian Contract Act, 1870	A person below the age of 18 years has no capacity to contract.
Provision of free and compulsory education	Article 45 of the Constitution states that the State shall endeavour to provide, within a period of 10 years from the commencement of the Constitution, for free and compulsory education for all children till they reach the age of 14 years.

66. The word "child" has been used in various legislation as a term denoting relationship; as a term indicating capacity; and as a term of special protection. Underlying these alternative specifications are very different concepts of the child. These include viewing children as a burden, which invokes rights to maintenance and support; regarding children as undergoing temporary disabilities, making for rights to special treatment and special discrimination; treating children as specially vulnerable for ensuring rights of protection; and recognizing children as resources for the country's development, necessitating their nurturing and advancement.

67. The question of review of the definition of the "child", in the light of article 1 of the Convention on the Rights of the Child has been referred to the Law Commission of India for its consideration while undertaking a comprehensive review of the Code of Criminal Procedure and the Indian Penal Code. The Law Commission has already reviewed the Code of Criminal Procedure and is likely to undertake a comprehensive review of the Indian Penal Code and the Indian Evidence Act shortly.

Age of the child: a dilemma

68. Legal enactments invoke differential age-specifics creating a dilemma whether the same human being is or is not a child, depending upon the law which is being invoked in a given case. Given the fact that a deprived child's birth is either inadequately or incorrectly recorded, the reliability and impact of the laws cannot be fully regulated in terms of age. The laws which relate to transgression by the child, are under the general rubric of "Juvenile", which distinguishes treatment vis-à-vis the adult for offences like begging, stealing, drug taking, peddling or crime. Free legal aid is available under the Public Utility Litigation provisions. But the disparity between the age-identified child and the laws applicable in terms of maturity levels and the child's ability to articulate needs, requires congruent thinking in policy, law statements and their enactments.

69. The acceptance of the definition of the Child given in the Convention on the Rights of the Child is likely to have implications on programme planning and budgetary provisions. The Government of India is, therefore, reviewing the legislation and is considering adopting the definition of the child set out in article 1 of the Convention, wherever it is feasible and applicable, so that the rights of children are protected in the society under all circumstances.

III. GENERAL PRINCIPLES

70. The Convention articulates five sets of basic rights, namely: civil and political; social and economic; cultural; rights in abnormal or dangerous situations; and right to due process of law. These sets of rights are based on certain guiding principles of:

Equality and non-discrimination (article 2);

The best interests of the child (article 3);

Obligation to protect all the rights of the child (article 4); and

Obligation to respect parental responsibilities and rights (article 5).

Respect for the views of the child (article 12).

71. Most of the above rights of the child find prominent place in the charter of rights guaranteed under the Indian Constitution. An Indian citizen enjoys today many more fundamental rights than those which were believed to have been available at the time when the Constitution was enacted. This enlargement of human rights jurisprudence was made possible because of the practice of judicial review and the constitutional obligation entrusted to the higher judiciary to be the guardian of peoples' basic rights. The Supreme Court has been adopting an activist, creative and dynamic role which has led to an expansive regime of rights to freedom to citizens particularly to the weaker sections amongst them.

72. The Constitutional treatment of rights is two-fold. On the one hand, certain rights and freedoms, mostly civil, political and cultural in nature, are secured as Fundamental Rights enforceable against the State through constitutionally guaranteed remedies, including writs.

Right to equality (articles 14-18);

Right to freedom (articles 19-22);

Right against exploitation (articles 23-24);

Right to freedom of religion (articles 25-28);

Cultural and educational rights (articles 29-30);

Right to constitutional remedies (article 32).

73. On the other hand, certain rights, largely social and economic in nature, have been listed as Directive Principles of State Policy. These rights, though not justiciable, are fundamental to governance and are considered a necessary supplement to Fundamental Rights in achieving the objective of the welfare State. This recognition of indivisibility and inviolability of rights included in the Directive Principles (social and economic rights) and the harmonious interpretation of other provisions in the Constitution to advance the content of the rights in Part IV (Directive Principles of State Policy) is a major accomplishment in human rights protection under Indian constitutional law.

74. The provisions in Part IV of the Indian Constitution which enabled the judiciary to promote the jurisprudence of child rights are articles 39 (e) and (f), 42, 45 and 47.

Article 39 says that the State shall, in particular, direct its policy towards ensuring:

(e) that the health and strength of workers and the tender age of children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength;

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Article 42 says that the State shall make provision for securing just and humane conditions of work and for maternity relief.

Article 45. The State shall endeavour to provide, within a period of 10 years from the commencement of this Constitution, free and compulsory education for all children until they complete the age of 14 years.

Article 47. The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

75. These rights, at present, may not be treated as positive rights, partly because they are expressly made non-enforceable through the courts (article 37) and partly because they are meant to be only progressively realizable, subject to the economic resources of the State. However, they are important provisions as article 37 stipulates in unequivocal terms that "these principles are fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws". The Supreme Court, as part of the system of governance of the country, has been invoking these principles in interpreting statutes and in implementing fundamental human rights. For instance, the inability of the State to provide free compulsory education for all children within a period of 10 years from the commencement of the Constitution has compelled the Supreme Court to declare the right to education to be part of the fundamental right to personal liberty (article 21), as without education, life cannot be lived with dignity. This healthy trend to increasingly read the rights contained in the Directive Principles (Part IV) into the Fundamental Rights in Part III of the Constitution is aimed at progressive realization of the rights under the Convention to which India is a signatory. In this approach, the clear winners are the hitherto neglected section of children who have not been able to assert their rights through the courts.

76. By ratifying the Convention on the Rights of the Child, the Government is obligated "to review national and State legislation and bring it into line with the provisions of the Convention". This obligation on the State is also in conformity with the Constitution, which allows the continuance in force of laws only if they conform to the provisions of the Constitution (article 372).

Legislative support to child rights

77. The Union Parliament and the State Assemblies have been playing an effective role in bringing forward appropriate legislation to support the status and welfare of children. A long list of beneficial laws has been put in the statute book, translating constitutional directives into legislative policies. Gaps and distortions in legislation resulting in unintended consequences in legislative policies governing child rights are reviewed on a regular basis to take remedial measures. An impressive list of laws exists, as enumerated in paragraph 5 above, leaving relatively little scope for fresh initiatives in law-making in favour of children.

78. Continuous efforts are being made at the governmental and non-governmental levels to bring forward progressive legislation to fill in the gaps.

79. The process of adjusting legislation to the spirit of human rights is a continuing one for which the legislature and the judiciary have to work incrementally over a period of time. The court cannot act unless its

jurisdiction is invoked by an aggrieved person, which in the case of a child is a difficult proposition. This constraint has been overcome by the courts, which have taken a broad view of the doctrine of locus standi and who have allowed members of the public to invoke the judicial process on behalf of persons who for social, economic or other reasons are unable to seek access to the courts through public interest litigation.

A. Non-discrimination (article 2)

80. Non-discrimination against children is an overriding principle of the Convention. This right is guaranteed by the Constitution (article 14). In practice, there are wide-ranging instances of discrimination based on caste, religion, sex, region, language, parentage or economic status and millions face unequal opportunities for survival and development. Among the disadvantaged, the girl child, street children, the children of prostitutes and children belonging to socially and economically backward communities need special mention. Several schemes and programmes have been introduced for their well-being and protection which are expected to provide them with the necessary support.

81. Many discriminatory practices are sought to be justified on grounds of religion, custom or social policy. Some of them are inherited from the feudal, colonial past and the laws designed then. Further, there are gaps in personal law which are not conducive to the best interests of the child. They include the length of maintenance (Muslim Law), the custodianship of the mother (Hindu Law), caste-related identity (Hindu Law) and the denial of adoption to non-Hindus. These are areas of concern which would need to be addressed more comprehensively.

82. The concept of illegitimacy and the consequent disadvantages to the children concerned harm the principle of equality and dignity of children. Discrimination based on economic or social status has been an inherent characteristic of Indian society. Laws prohibiting the practice of untouchability and providing for the reservation of jobs and education for erstwhile untouchables have to a large extent improved the status of these classes, though it will take still more time before this practice is eradicated completely.

83. The right to education of every child is the foundation on which the right to equal treatment and non-discrimination is based. The right to education also presupposes that other rights, to health and nutrition and the right to privacy, are provided to every child. The right to education is, thus, of particular significance to all children who suffer discrimination, especially girl children and children with special needs who have mental, physical or economic disabilities. Compulsory education for all children is the basis of ensuring civil rights for all children. The Government has recently legislated the Prevention of Disabilities (Equal Opportunities, Protection of Rights and Participation) Act, 1995 which provides for meeting the needs, including education rights, of children with disabilities. A national policy for the disabled is under active consideration by the Government.

1. Discrimination against the girl child

84. Gender bias continues to manifest itself in Indian society. Traditionally, India is a society that idolizes sons, who are desired because of their key role in the cremation ceremony on the demise of the parents. Sons are also desired to continue the lineage and family name. They are also expected to support their parents economically in their old age. Religion-based legal systems in India have discrimination based on sex. This is evident in legislation relating to marriage separation, property rights and the custody of children. The girl child does not always enjoy the rights of childhood for reasons extraneous to her. Till recently, education and health care were almost denied to her and she was confined to household work. In fact discrimination reaches such an extent that in certain areas and communities the female child is aborted and not allowed to be born. The Parliament as well as certain states have come forward with the prohibition of sex determination tests with a view to curbing female foeticide.

85. Girl children, especially in rural areas, remain deprived of adequate access to basic health care, nutrition and education. Inevitably, more girls than boys suffer from malnutrition and succumb to diseases. There were an estimated 7.8 million fewer girls than boys below the age of 14 in 1991, which yields a female to male ratio of 0.949. The adverse female to male ratio among children is attributable to the systematic deprivation and unequal treatment of girls vis-à-vis boys in several parts of the country. Female infanticide and selective abortion of the female foetus continue to be reported in various parts of India. However, these do not seem to have an implication for the sex ratio, for which factors like access to health care and nutrition are of greater consequence.

86. Families prefer to educate the male child rather than the girl child. During 1991/92, the ratio of girls to boys was 88.1 to 116.6 in classes I to V and 47.4 to 74.2 for classes IV to VIII. Nearly one third of the girls who enter formal education in class I drop out before entering class II. Even in non-formal education centres, girls form only one third of the total enrolment.

2. Policies and programmes for combating discrimination against the girl child

87. The National Policy for Children formulated in 1974 does not explicitly mention the girl child. However, India's National Plan of Action for Children, 1992, includes the objective of removing gender bias and improving the status of the girl child in society so as to provide her with equal opportunities for her survival and development and to help her achieve her full potential. India has adopted a separate National Plan of Action for the SAARC Decade of the Girl Child (1991-2000). In pursuance of this Plan of Action, various government departments, namely, the Department of Women and Child Development, the Department of Family Welfare and the Department of Education are placing special emphasis on gender-specific interventions and programmes, with the support of NGOs.

88. A scheme for adolescent girls was started recently to meet the needs of girls in the age group of 11 to 18 years in the areas of health, nutrition,

non-formal education and literacy, and social and recreational needs, recognizing the potential of these goals as effective social animators at the village level. The girl child has become the focus of the universalization of primary education in an effort to achieve "Education for All by 2000 A.D.". Special emphasis is being given to the enrolment and retention of the girl child under various programmes of the Department of Education.

89. All these efforts have resulted in reversing the trends of gender inequality. According to 1991 data, out of the total female population, about 36 per cent were girls in the age group 0-14 years. There is a decline in female mortality rates, especially in the age groups 0-4 years and 5-14 years, indicating improvements in the survival of the girl child. In the age group 0-4 years, the mortality rate declined from 43.3 in 1981 to 27.5 in 1991, while in the age group 5-14 years, the decline was from 3.1 in 1981 to 2.2 in 1991. The sex differentials in literacy are still very pronounced though there has been noticeable improvement in the female literacy rate from 29.75 per cent in 1981 to 39.29 per cent in 1991. Overall enrolment of girls in schools increased from 5.4 million in 1950/51 to 46.4 million in 1993/94 and at the upper primary stage from 0.5 million to 15.7 million. In 1993/94, school enrolment at the primary stage was above 100 in many states.

90. The current Eighth Five-Year Plan strategy states that social discrimination against girl children will be effectively countered, through a massive campaign, to ensure equal treatment and equal opportunity for their growth and development. A holistic approach has increasingly been emphasized, including appropriate intervention, gender sensitization, advocacy, social mobilization and the use of the media to change attitudes.

91. Owing to the prevalence of female foeticide, the central Government enacted the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act in 1994, which will have precedence over the existing legislation on sex determination tests in Maharashtra, Rajasthan and Punjab and the proposed legislation in Haryana. The new legislation states categorically that those conducting the diagnostic procedure should not communicate to the woman or her relatives the sex of the foetus. Misuse of the diagnostic procedure could result in imprisonment of three years and a fine of Rs 10,000 and suspension of the registration of doctors convicted for abuse of the new technology.

92. The social and cultural milieu of India has long favoured universality of marriage and early marriage for girls - even before the legal age of 18 years. According to the National Sample Survey (43rd round), in rural India, as many as 44 per cent of girls in the age group 15-19 years and 5 per cent in the age group 10-14 years were married in 1987/88. The corresponding urban proportions were 21 and 1.4 per cent respectively. The mean age at marriage of girls during the decade has increased from 15.5 in 1981 to 19.5 in 1991. Child marriages are still prevalent in some parts of rural India, mainly in Rajasthan, Uttar Pradesh, Bihar and Madhya Pradesh.

93. The Child Marriage Restraint Act of 1929, also known as the Sarda Act, was amended in 1978 to raise the minimum marriage age of girls to 18 years and for boys to 21 years. Under the new Act, police officers are competent to

investigate offences if they are cognizable but may not arrest any person without a warrant or an order from a magistrate. However, the Act does not invalidate child marriages, as this could adversely affect the status of girls.

B. Respect for the views of the child (article 12)

94. Paragraph 5.12 of the Chapter on Civil Rights and Freedoms may also be seen in this regard. Socialization includes the imposition of discipline by adults for behaviour modification. Age hierarchy is traditionally an important theme in the growing up process for Indian children. Children are expected to be obedient and often have a limited say in the decisions which are made for them. This continues by and large through the remaining periods of life, sometimes as long as the elders/parents are alive, albeit in a milder form through seeking the blessing of elders. The child often does not get to express his or her views freely. However, the sensitivity of families towards children's needs has increased in recent years as a result of advocacy and education.

IV. CIVIL RIGHTS AND FREEDOMS

95. The Indian Constitution presents an impressive list of civil and political rights for children.

96. While the right of equality before the law and equal protection of the law is available to any person including children, article 15 (3) empowers the State to have special laws for children, solely intended to enable them to enjoy the fruits of the guarantee of equality. Examples of such laws include the Child Labour Prohibition laws and the Juvenile Justice Act. Class legislation is thus not only constitutionally permissible but also constitutionally mandated.

97. Taking note of the then prevailing exploitative practice of trafficking in human beings, particularly children, article 23 of the Constitution has put a total ban on forced labour and made such practices punishable under law.

98. The Constitution, in article 24, has prohibited the employment of children below the age of 14 years in any factory, mine or in any other hazardous activity.

99. Besides, all the seven sets of Fundamental Rights in the Constitution are available to children with as much authority and accessibility as to adult citizens.

100. There is a large body of case law which has not only developed the application of these rights to children but has also expanded their scope in order to make them meaningful. This was accomplished by the judiciary through harmonious construction of Part III (Fundamental Rights) and Part IV (Directive Principles of State Policy) of the Constitution side by side with India's treaty obligations and obligations under the Convention on the Rights of the Child. Thereby, the Indian judiciary has made a singular contribution for the universal development of human rights generally, and of child rights in particular.

101. It may be concluded that in the matter of civil rights and freedoms, the laws of the country stand very much in line with the global human rights movement and the Convention on the Rights of the Child. India's ratification of the Convention in 1992 has generated, renewed concern regarding the policies and priorities, obligations and commitments vis-à-vis children. In order to translate this concern into concrete action, the provision of trained personnel and greater accountability vis-à-vis legal obligations are being attempted. The courts have begun to take child rights and principles governing them seriously and have gone to the farthest limits to give every child, particularly the neglected and the delinquent, an opportunity to enjoy the minimum guarantees of law.

102. India is a union of states, and under the scheme of governance envisaged by the Indian Constitution, all legislative powers are organized under three lists given in the Seventh Schedule. List I (Union List) contains matters in which the Union Parliament has exclusive power to make laws. Similarly, in respect of items in List II (State List), the State Assemblies have exclusive power to make laws. List III (Concurrent List) contains matters in which both Parliament and State Assemblies have power to legislate. On matters not enumerated in List II or III, Parliament has residuary powers of legislation (articles 246 and 248).

103. While public order, police, prisons, reformatories, borstal institutions, relief and the disabled, etc., are subjects of List II, a number of related matters like criminal law and procedure, family law, civil procedure, vagrancy, economic and social planning, social security, welfare of labour, education, etc., many of which relate to the rights of children, are items in List III. As such the status of legislative protection available to children and the extent of enforcement of laws affecting their entitlements are dependent upon state governments.

104. There have been some positive developments in the period following the ratification of the Convention on the Rights of the Child. Following an international conference on the subject in March 1994, an "Alliance for the Child" has been formed at the national level with the Chief Justice of India as its chairperson. This body has inspired an active interest in the problems of children viewed in the perspective of their rights. Senior judicial officers, lawyers and police personnel have attempted to address the problems of children, particularly in the context of the implementation of the Juvenile Justice Act.

105. The National Human Rights Commission set up in 1993 has been taking an active interest in the implementation of children's rights in the country. The Commission has been examining issues like child labour and related issues such as compulsory primary education, child marriages, child prostitution, female foeticide and infanticide in depth and is supportive of efforts by the non-governmental organizations and activists to further children's rights.

A. Name and nationality (article 7)

1. Nationality

106. Prior to independence, nationality in India was governed by the British Nationality and the Status of Aliens Act 1914. The concept of Indian citizenship came into being only with independence. The Indian Citizenship Act 1955 provides for acquisition, termination and renunciation of Indian citizenship and other matters. A child born in India or abroad acquires Indian citizenship if either of his parents is an Indian citizen. A minor child ceases to be a citizen of India if his parents renounce Indian citizenship. But any such child may, within one year of his attaining 18 years of age, resume Indian citizenship by making a declaration to that effect.

2. Birth registration

107. Article 7 of the Convention makes it the parents' responsibility to register the birth of the child. In India, there is a regular system of registration of birth, deaths and names. The Office of the Registrar General of India, under the Ministry of Home Affairs handles the registering of the birth and name of new-born babies as governed by the provisions of the Registration of Births and Deaths Act, 1969. Rules were framed under this Act by various state governments between 1970 and 1982. Under the Act, registration of all births occurring in the country was made compulsory and free of charge, if reported within the prescribed time-limit. At present, the period prescribed for the registration of birth varies from 14 to 21 days in various parts of the country. Section 13 of the Act also has provision for delayed registration for events which could not be registered within the normal reporting period. Under section 12 of this Act, the first copy of the extract of registration, which is also known as the birth certificate, is given free of charge. The necessary reporting form prescribed for birth registration of a newborn contains an item on the name of the child. Concerted efforts are being made to create awareness for improving the timely registration of births and thus ensuring that the correct age of the child, an essential prerequisite for children's rights, is known at all times.

108. In practice, it has been found that many parents do not register births owing to low levels of awareness, home deliveries and illiteracy. The Report on the Vital Statistics in India (1987) shows that coverage of births by the registration system is 100 per cent only in six States and three of the Union territories. In order to increase the rate of birth registration, an element of compulsion for obtaining birth certificates has been introduced in certain urban areas. This includes compulsory production of the birth certificate at the first school admission and for obtaining ration cards. It has improved the rate of registration of births. The media have been used effectively to promote awareness of the benefits arising out of universal birth registration.

B. Right to participate, freedom of expression and access to information

109. Freedom of expression is a fundamental right which is available to all persons in India, including children. The fact that this freedom, especially

in the case of children, may be circumscribed by the cultural ethos of a society needs to be acknowledged. The child's right to information is sometimes determined by parents or teachers, which may sometimes be seen as limiting their rights. However such action is taken predominantly in the best interest of the child and should not be seen as preventing free access to information or freedom of expression. The child's view is taken into account in a number of situations involving custody, fixing criminal liability, and giving evidence in court.

C. Freedom of thought, conscience and religion (article 14) Freedom of association and of peaceful assembly (article 15)

110. Every person in India is entitled to freedom of conscience and the right freely to profess, practise and propagate religion, subject only to public order, morality, health and such other provisions as are laid down in the Constitution itself. The Supreme Court of India has upheld the religious belief of a child belonging to the Jehovah's Witnesses not to sing the national anthem in the morning assembly at school. Similarly, freedom of association and peaceful assembly is guaranteed under the Indian Constitution.

D. Right to personal liberty, bodily integrity and privacy

111. Bodily integrity and privacy are basic rights provided for in articles 16 and 37 of the Convention. While personal liberty (right to life) is guaranteed by article 21 of the Indian Constitution, freedom from self-incrimination, double jeopardy, unlawful arrest and detention are provided for by articles 20 and 22. Traffic in human beings is prohibited under article 23 and all forms of forced labour are outlawed. The court has developed public interest litigation (PIL) as a strategy to provide wide access to aggrieved persons, even through total strangers. Judicial remedies have come to be democratized through the introduction of interim relief appropriate to the occasion. Thus medical justice, rehabilitative justice, compensatory justice, etc., have become part of human rights jurisprudence in India, giving meaning and content to the right to life and liberty. Important beneficiaries of this judicial activism on the right to bodily integrity have been children.

112. Children in bondage have been released and rehabilitated under court orders made at the instances of NGOs and journalists.

113. The conditions in custodial institutions for delinquent and destitute children have been improved in a series of cases taken to court.

114. Humane approaches towards children in conflict with the law have been adopted under strict directions of the court.

115. While such refinements in the rights of the child were taking place, mainly through the judicial process, there have been reports of increasing victimization of children through rape and related sexual offences and through forced prostitution. One explanation for the increase in reporting of such crimes could be greater awareness and openness as a result of effective advocacy for children's rights. Even then, all efforts are being taken to arrest this victimization through effective and sensitized enforcement

machinery, and speedier trials and justice. The Central Advisory Committee on Child Prostitution, set up to make suggestions for eradicating child prostitution, has submitted its report. Suitable machinery will soon be set up for implementing its recommendations. As a first step, a child prostitution desk has been recently created in the Department of Women and Child Development.

116. An issue of great importance in this regard is the relevance of consent of the child or young adult in medical treatment. Usually, information on the child is gathered from the parent and decisions on treatment are made with the consent of the parents or guardians. However, there are situations in which a conflict of interests may arise and the parent's consent may not be in the best interest of the child. Greater awareness on this aspect is being generated.

117. The right to privacy implies that there should be in camera trials of all cases involving juveniles. The present system provides this protection, and in the reporting of cases involving juveniles or rape victims the name or address of the victim is not mentioned. However, this protection has not been extended to include law journals or the publication of photographs of the victim.

118. The child's right to privacy implies that the child should be able to aspire to a decent living environment to meet his or her needs. This right is especially important for girl children, adolescent girls and children living in urban slums, who often have to share a one room hut with siblings and parents. Effective government steps towards providing shelter for the homeless can go a long way in meeting this provision of the Convention. Although housing is a State subject, the Union Government formulates housing policies with programmes and approaches for effective implementation of social housing schemes, particularly for the weaker sections of society, to accomplish the goal of "Shelter for All". The Prime Minister's 20 Point Programme lays special emphasis on the housing needs of the disadvantaged sections of society. Currently, four social housing schemes, the scheme for the economically weaker sections of society; the low-income group, middle-income group and rental housing scheme; the rural house-site-cum-house construction scheme; and Indira Awas Yojana are being implemented through the state governments and Union territory administrations.

119. Any generalization on the status of children's rights in the whole of India is risky, unfair and contrary to realities on the ground, despite instances of relative neglect of children's welfare and uneven enforcement of laws in some parts of the country. Moreover, the performance of the higher judiciary has been particularly noteworthy in the context of enforcing legislation beneficial to children. It is through the high courts and the Supreme Court that judicial remedies and procedural standards have been evolved and accountability established on issues of human rights. The public interest litigation which is a unique feature of the Indian judicial system has been successfully used in guarding the rights of children.

120. Priorities given for follow-up action under civil rights and freedoms are:

(i) Review and revision of laws, particularly those relating to children to enable and facilitate affirmative actions by the State and to address existing lacunae;

(ii) Strengthening enforcement machinery to ensure translation of rights into reality;

(iii) Making the existing constitutional right to education a reality for all children;

(iv) Comprehensive review of the Juvenile Justice Act to make it more effective and child friendly;

(v) Sensitization of the judiciary and the law enforcement machinery to the special needs of children;

(vi) Promoting affirmative action by the State, communities and all concerned sections of society.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

121. The Preamble of the Convention clearly states that the family is the fundamental pillar of society and the natural environment for the growth and well-being of all its members, particularly children. It is the major source of development of children, providing nurturance, emotional bonding and socialization. The child, the family and society, constantly interact with, and therefore influence, one another. A holistic and realistic understanding of the Indian context requires that the family dynamics of our culture with respect to the child be analysed.

122. Children in India are traditionally an essential part of the family unit. The child-rearing process during infancy has by and large been laissez-faire, with flexible rules and restrictions. Kindness to the young ones is an essential element of child-care. Within the folds of the large joint families, children grow under the charge of multiple caretakers.

123. Much of parental behaviour has been prescribed in the religious texts counselling and advising adults on their conduct towards children. Manu, the ancient Indian philosopher has served as a beacon with his dictates on protection and indulgence of children by society:

> "They should be fed before others, not spoken to harshly and forgiven for their omissions. Punished they must be; but when there is reason and that too without inflicting pain."

A. Family focus in policies and schemes for children with problems

Parental guidance or respect for the rights, duties and responsibilities of parents (article 5)

124. The parents/family have additional responsibilities when the child has a problem. Some of these problems, especially substance abuse and infringement of the penal law, have their sources in the family, or absence of it, and its environment. Articles 23, 24, 25, 33, 37 and 40 of the Convention recognize the role and importance of the family and the community in this regard.

125. The Juvenile Justice Act of 1986 deals with children who may be found in situations of social maladjustment, delinquency or neglect. Under this Act, a Scheme for Prevention and Control of Juvenile Social Maladjustment is being implemented. This scheme provides support for setting up institutions and after care organizations, and for training of functionaries. This and other schemes for the welfare of this category of children could be strengthened by giving a more pronounced focus to the family. The year 1994 was celebrated as the "Year of the Family" and the Ministry of Welfare in the Government as the nodal Ministry took a number of steps to focus on the "child in the family".

B. Parental responsibility: the child's right to both parents

126. In accordance with article 7 of the Convention, the child has the right to be cared for by his or her parents. Article 9 enjoins the State to ensure that children shall not be separated from their parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the place of residence. Article 18 of the Convention mentions that both parents have the primary responsibility for the upbringing and development of the child.

127. In India, there is no law providing for separating the child from his or her parents when he or she is being abused by them. However, childbirth out of wedlock or judicial separation, divorce, annulment or desertion by the parents lead to situations of parent-child separation, which involve issues of the child's status with regard to guardianship and parenting; maintenance, custody and access; and illegitimacy. In India, the natural guardianship is given to the father and child-care responsibility to the mother. In most communities, the child's second name is that of the father, indicating that the child belongs to the father. The data forms for birth registration, ration card and passport, all require the father's name as the guardian of the child.

1. Legal provisions for guardianship

128. According to the Hindu Minority and Guardianship Act, 1956 the natural guardian of a boy or an unmarried girl is the father and after him, the mother. The prior right of the mother is recognized only to custody in the case of children below five, but even this right is qualified by the word

"ordinarily". In the case of an "illegitimate" boy or an "illegitimate" unmarried girl, the mother is the natural guardian and after her, the father.

129. Under Muslim law, the father is the sole guardian of the child. However, the mother has the prime right to custody of the child. According to the Shia school, the mother's right of custody of a boy terminates when the child reaches the age of two; in the Hanafi school, this right is extended till the age of seven. Both schools, however, agree that the mother has the right to the custody of a minor girl till she attains the age of puberty.

130. Guardianship in all other communities is governed by the Guardian and Wards Act, 1890. It clearly lays down that the father's right is primary and no other person can be appointed as a guardian, unless the father is found unfit.

131. The Law Commission Report of 1989 recommended that the mother should have the same and equal rights of guardianship of the child as the father. The policy for women formulated by Maharashtra in 1994, envisages amendment of the Guardianship Act to enable the mother also to be a guardian.

2. Legal, policy and programme provisions for parenting

132. The Factories Act of 1948 expects industrial units employing 30 or more female workers to run a crèche for their children. Similarly, the Plantations Act of 1951 stipulates that every plantation employing 50 or more women workers should provide a crèche. The Mines Act of 1952 specifies that a crèche has to be provided wherever women are employed, regardless of their number, making it necessary even if only one woman is employed.

133. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966 provides that in all industrial premises where more than 50 female employees are ordinarily employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of 6 years of such female employees. Thus the corporate sector does not recognize the child-care needs of the father. In fact, this provision discourages employers from employing women. On the other hand, there is an under-utilization of the existing crèches because fathers who need them for their children cannot use them. The Scheme of Assistance to Voluntary Organizations for Crèches also targets working and ailing women's children.

3. Maintenance, custody and access

134. Under all our matrimonial statutes, the children are treated as part of ancillary proceedings. Orders as to custody, maintenance and education of children can be made only when a petition is filed in a court of law. If the petition is dismissed, no order for children can be made by the divorce court. The children are not considered independent parties to the proceedings.

135. In cities where the Family Courts Act of 1984 is implemented, matters of maintenance, custody and access come under the jurisdiction of the family courts. The counsellors submit to the court a report relating to the home environment of the parents, their personalities and relationship with their child, in order to decide the question of custody of the child. They may also

help the court in determining the amount of maintenance to be granted to the child. These provisions in the Family Court Act have facilitated speedy and appropriate disposal. Under the Hindu Marriage Act, 1955, the Special Marriage Act, 1954 and the Parsi Marriage and Divorce Act, 1936 the age of children for orders of custody, maintenance and education is 18 years.

136. According to article 27 of the Convention, the State shall take all appropriate measures to secure the recovery of maintenance for the child from the parents. The right of the child to maintenance from parents is granted in all the personal laws. Under most of the personal laws, the primary obligation to maintain the child is that of the father, but if the father has no means or insufficient means and the mother has the means, then the mother has the obligation to provide for maintenance. In section 125 of the Criminal Procedure Code, this right is applicable to legitimate and illegitimate children; children of void marriages are considered legitimate. The courts have held that even when there is no separate application for maintenance of the child, the court is entitled to grant maintenance to children while deciding the issue of maintenance for wives.

137. Article 9 of the Convention states that the State shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests. The Hindu Marriage Act, 1955 and the Special Marriage Act, 1954 state that custody, maintenance and education of children should be consistent with their wishes wherever possible. The Parsi Marriage and Divorce Act, 1936 and the Indian Divorce Act, 1969, applicable to Christians, do not provide for consideration of the child's wishes, though in practice, the wishes of the child are considered if he or she can express them. The courts have also expressed the view that the wish of the child is a relevant consideration, but the welfare of the child is a paramount consideration, and if the welfare of the child requires, the wishes of the child may be disregarded.

C. Illicit transfer and non-return (article 11)

138. India is not a party to the Convention on the Civil Aspects of International Child Abduction. The cases involving illegal transfer of children by the non-custodial parent from the parent having legal custody have been dealt with by the courts in India by applying the relevant principles of private international law, and the custody of the child has been ordered to be restored to the lawful guardian.

D. Alternative family care programmes for children deprived of a family environment (article 20)

139. Since 1974/75, the Ministry of Welfare has been implementing the Scheme for Welfare of Children in Need of Care and Protection to take care of and rehabilitate abandoned, neglected, orphaned and homeless children. The welfare services being provided under the scheme include food, shelter, education, health, vocational training etc.

140. The problem of destitution persists in spite of a network of institutional and non-institutional programmes and services provided by the

Government and voluntary organizations. For the development of destitute children in a family setting SOS Children's Villages were started in the country in 1964. At present, more than 25 SOS Children's Villages are taking care of over 10,000 children.

1. Non-institutional services project in disaster affected areas

141. Disaster management should respond to the needs of destitute children in crisis situations. A pilot project has been undertaken by "Shishuadhar", a Pune based NGO, to introduce non-institutional services like sponsorship, foster care, guardianship and family assistance for orphaned and destitute children in the earthquake affected area of Latur. This is an attempt to provide alternative family care to the children instead of institutionalization. This "rehabilitation package" has helped in assisting many orphans who would otherwise have been sent to institutions and orphanages.

2. Lacunae and inconsistencies in policy and programmes

142. While the National Policy talks about the family as being the best environment for a destitute child, the corresponding schemes and programmes to promote the non-institutional approach to child welfare are limited and need to be augmented. Assistance mostly goes to residential institutions and more observation homes are set up each year. Even children with single parents are admitted who could actually be supported through other schemes like sponsorship or day care. There is felt need for better coordination between the Juvenile Welfare Board and the Central Social Welfare Board to provide better care for the child. Lack of minimum standards in some of these institutions also needs attention.

E. Adoption (articles 21 and 35)

143. Adoption and informal foster-care are part of our historical social tradition in India. From ancient times the practice of adoption of a child by childless Hindu couples has been carried out with rituals and ceremonies whereby the entire community is made aware of the irrevocable legal status of the child. As in all patriarchal societies, the emphasis was on adoption of a male child to continue the family lineage and do the religious duties, but adoption of girls was also prevalent. However, adoption was parent-centred, to fulfil the needs of the parent, rather than child-centred.

144. When India gained Independence in 1947, it was decided that all matters pertaining to family life would continue to be governed by the personal laws of each religion. The customary practice among Hindus was codified and incorporated in the Hindu Maintenance and Adoption Act in 1956. All others who wished to take a child into their family could do so only on guardianship under the Guardian and Wards Act 1890. In 1967, 1972, 1978, 1980 attempts were made to introduce a Uniform Adoption Bill in Parliament which would enable persons of all religious backgrounds to take a child in adoption.

145. The late 1950s and the 1960s saw the advent of inter-country adoption in India. With the presence of few adoptable children in the West and better communication through the international media bringing the needs of children

in distress to their notice, individuals and organizations started coming in search of Indian children. The 1970s saw an increased number of Indian children being taken abroad. In the wake of reports of malpractice, the Supreme court of India between the years 1984 and 1991 issued a series of directions with regard to the detailed procedures to be followed on inter-country adoption. The Ministry of Welfare has been emphasizing the promotion of in-country adoptions, so that as far as possible the children can grow up in their own social, cultural and ethnic milieu. Inter-country adoptions are being resorted to only when all avenues for in-country adoptions have been exhausted.

146. Inter-country adoption is regulated by the guidelines issued by the Ministry of Welfare in pursuance of the directions given by the Supreme Court. These guidelines lay down the conditions for recognition of voluntary organizations, the role of the central and state governments and the procedure to be followed. The Ministry of Welfare grants recognition to both Indian and foreign agencies which are engaged in sponsoring children for adoption abroad. There are at present 80 Indian voluntary agencies and 273 foreign agencies which have been recognized. during 1993, 1,382 children were adopted in the country and 1,134 were sponsored for inter-country adoption. The Central Adoption Resource Agency (CARA), set up in 1990 under the Ministry of Welfare, is the nodal agency for all matters pertaining to adoptions and acts as a clearing house for information regarding the adoption of children. It also keeps an unobtrusive watch on the progress of the children adopted by foreign parents.

147. A mechanism to promote and facilitate Indian placements and adoptions was established in the non-governmental sector with the starting up and strengthening of voluntary coordinating agencies in states where inter-country adoption is prevalent. A voluntary coordinating agency is an association of non-governmental organizations interested in the promotion of Indian adoptions. The structure and functions vary from state to state. Besides service, one of the roles of the voluntary coordinating agencies has been publicity and awareness generation for the concept of adoption. These public awareness campaigns and a changing social situation with a more liberal society, a growing educated middle class population, and the availability of a service delivery system to process adoptions has made it possible for many more adoptable children to find families within the country.

Anomalies and inconsistencies in adoption laws

148. The need for a uniform adoption law applicable to all persons irrespective of their religious backgrounds, under which every child who is permanently placed with a family will have the irrevocable and legal status of a natural born child, is acutely felt by all concerned. Although there is an increasing number of parents desirous of taking a child in adoption in certain urban areas, there are still vast areas of the country where this awareness is yet to be created.

Priority areas for action

149. Some aspects receiving attention are:

(i) Sensitizing the public in general and decision makers in particular for a special adoption law applicable to all persons irrespective of their religious backgrounds under which every child who is permanently placed with the family will have the irrevocable legal status of a natural born child;

(ii) Sensitization of the appropriate authorities to the damaging effects of institutional care and the need of every child to be in a stable, long-term family environment;

(iii) Advocating recognition of the equal rights and responsibilities of both parents with regard to children;

(iv) Strengthening state-level machinery to monitor placements in adoption or alternate care institutions;

(v) Sensitization of various authorities in order to prevent abandonment of children.

Street children

150. The Convention does not have any specific article referring to street children. However, life on the streets violates all the survival, protection and development rights of the child. Environmental degradation, migration and displacement of families have led to an exodus to the cities and the expansion of slum and pavement dwellings. Child care and development are seriously hampered in these families. Women in the single-parent families and female headed household are the worst affected as they have the main earning responsibility but they are generally ill-equipped for gainful employment. Their children very often spend most of their time on the street. A large number of street children suffer from destitution, neglect, abuse and exploitation. They are subjected to harassment and eviction because of their unauthorized occupation of city roads and public and private property.

151. It is estimated that 500,000 children live on the streets in seven cities: Bangalore, Bombay, Calcutta, Delhi, Hyderabad, Kanpur and Madras. The majority of these children are over eight years of age, have never attended school, and have parents who have low-paid unskilled jobs. The majority of street children are boys: twice as many as girls. Most of the families of street children are migrants, with very poor socio-economic conditions.

Legal, policy and programme provisions for street children

152. The Juvenile Justice Act of 1986, which deals with socially maladjusted, delinquent or neglected children, lays down that no child under any circumstances should be lodged in a jail or a police lock-up. The provisions of this Act also cover street children. The National Policy for Children states that children who are socially handicapped, who have become delinquent

or have been forced to take to begging or are otherwise in distress, shall be provided facilities of education, training and rehabilitation and will be helped to become useful citizens.

153. The National Plan of Action includes street children in the category of children in especially difficult circumstances. A scheme for the welfare of street children has been recently formulated and launched with a view to supporting and strengthening voluntary organizations already engaged in the welfare and development of street children, to enable them to reach out to a large number of such children. Each grantee organization implements one project for 300 children.

154. The first aim of the scheme is to provide integrated community-based non-institutional basic services for the care, protection and development of street children facing destitution, neglect, abuse and exploitation. The second aim is programme interventions for the reduction of exploitation and abuse and the withdrawal of children from hazardous work. The scheme has been focusing on prevention and rehabilitation. NGO forums have been established in 23 cities in India with about 60 organizations working directly with street children. A national NGO forum for street children and working children was formed in 1988 to promote collective action on certain issues.

VI. HEALTH, NUTRITION AND CHILD CARE

A. Health and health services (article 24)

155. Health, indeed, is a basic need and a fundamental ingredient of human rights, it is a positive right which can be acquired only to the extent that the State is willing to guarantee. In the Indian context, health is a constitutional mandate. The Constitution of India, under Directive Principles of State Policy, states that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties (articles 39 (e) and (f), and article 47).

156. The National Policy for Children spells out in clear terms the constitutional provisions:

> "It shall be the policy of the State to provide adequate services to children, both before and after birth and through the period of growth, to ensure their full physical, mental and social development. The State shall progressively increase the scope of such services so that, within a reasonable time, all children in the country enjoy optimum conditions for their balanced growth."

157. The task of providing health care to ensure the holistic development of over 300 million children (0-14 years) in India, where one third of them live in conditions of abject poverty and neglect, is an enormous challenge. A child is exposed to many types of deprivation from the time of conception. Wide disparity between the rich and the poor, between urban and rural settings, gender discrimination, and illiteracy among parents are factors impinging on the child's survival, growth and development.

158. Planning of health constitutes a vital element in the overall strategy of socio-economic development of our country. The National Health Policy (1983) has given highest priority to launching special programmes for the improvement of maternal and child health. As a result, care of mothers and children has been given precedence in the health service delivery system. India is committed to attaining the goal of "Health for All by the Year 2000" though universal provision of comprehensive primary health care services. Most of the targets set to achieve this goal are related to the health of children and women.

159. Accordingly, the National Plan of Action for Children has given priority to maternal and child health and the targets set are in consonance with those of "Health for All". The major child health goal of the Plan is to reduce the infant mortality rate to below 60 and the child mortality rate to below 10 per thousand. The objectives set to achieve this goal include maintenance of 100 per cent immunization coverage, eradication of polio by 2000 A.D., elimination of neonatal tetanus by 1995, prevention of 95 per cent of deaths from and 90 per cent of cases of measles by 1995, prevention of 70 per cent of death from and 25 per cent of cases of diarrhoea, and prevention of 40 per cent of deaths due to acute respiratory infections by 2000 A.D.. The major goal of the Plan related to maternal health is reduction of the maternal mortality rate by half between 1990 and 2000 A.D.. For this, special attention is being paid to the health and nutrition of the female child and expectant and nursing mothers, along with the expansion and strengthening of existing health programmes in terms of material facilities, trained manpower, etc.

160. The strategy for the implementation of the Family Welfare Programme during the Seventh Five-Year Plan was based on the report of the Working Group on Population Stabilization and Maternal and Child Health Care. The programme is being carried out on a purely voluntary basis with emphasis on promoting birth spacing methods, securing maximum community participation and promoting maternal and child health care. India was the first country in the world to officially adopt a national policy for the promotion of family planning. About 51.6 per cent of eligible couples are protected by family planning measures. In spite of these measures, considerable ground remains to be covered.

1. Health services

161. The maternal and child health programme has been an integral part of the primary health care services. Under the programme, efforts are being made to promote early registration of pregnant women with a view to ensure at least three antenatal check-ups, immunization, and intake of iron and folic acid tablets. The specific programmes of the Ministry of Health and Family Welfare geared towards maternal and child health are the universal immunization programme, oral rehydration therapy, and prophylactic schemes against nutritional anaemia among pregnant women and against blindness due to vitamin A deficiency. As the National Health Policy seeks to achieve 100 per cent deliveries by trained personnel, traditional birth attendants are being trained and clean delivery is being promoted at all levels. Besides this, proper spacing between children is being promoted as a health measure for both mothers and their children.

162. The ongoing maternal and child health programme of the country has been strengthened by the launching of a child survival and safe motherhood programme in 1992-93. The programme is being implemented in phases so as to cover all districts in the country by 1996-97. The programme is directed towards strengthening immunization, oral rehydration therapy and prophylactic programmes and improving maternal and neonatal care at the community level. The additional interventions under implementation are expansion of the programme for control of acute respiratory infections for children below five years of age and setting up a network of first referral units for improving emergency obstetric care.

163. Neonatal tetanus remains a problem in states which have a high proportion of deliveries conducted by untrained personnel. To resolve the problem, immunization of pregnant women is being stepped up and an intensive programme of training/retraining of all traditional birth attendants has been started since 1994. The goal of elimination of neonatal tetanus by 1995 was near achievement in 11 states and Union territories. Remarkable progress in efforts to eradicate poliomyelitis has been noted in the year 1995/96 with nationwide immunization days on 9 December 1995 and 20 January 1996 with 88 million children under three years of age given oral polio vaccine (OPV) twice. Mass immunization with two doses of oral polio vaccine per year would be continued for the next three to four years with a view to eradicating poliomyelitis. In the case of measles, compared to the incidence in 1987, an 80 per cent decline has been achieved in 1995. To maximize the reach of health services, there has been an increase in the number of primary health centres and sub-centres. At present 1,31,471 sub-centres, 21,040 primary health centres and 2,297 community health centres provide health services to the target population.

164. The development of health facilities and use of integrated approach of packaging maternal and child health care with nutrition, education, water and sanitation, etc. has paid dividends. The impact of these interventions is becoming perceptible in the declining trends of disease incidence and mortality rates. There has been a significant drop in the infant mortality rate, from a level of 119 deaths per 1,000 live births in 1981 to 74 in 1994. The age-specific child mortality rate has also declined for all age groups. The decline being substantial in the age group 0-4 years and 5-14 years. In the age group 0-4 years, the decline was from 41.2 in 1981 to 23.7 in 1993, whereas in the age group 5-14 years, the mortality rate declined from 2.9 in 1981 to 2.1 in 1991. However, the maternal mortality rate is still high, mainly due to anaemia, haemorrhage, toxaemia of pregnancy and septic abortions. The improvement in the survival of children can also be attributed to successful coverage of all the districts for immunization in three antigens - DPT, OPV and BCG; 88 per cent in measles and 82 per cent in TT for expectant mothers. There was a reduction in deaths due to diarrhoea of newborn babies from 9.5 per cent in 1983 to 9.0 per cent in 1990.

165. The Government initiated the special health check-up scheme for primary school students from 22 to 27 July 1996. The school health programme essentially aims at the screening of all primary schoolchildren for common ailments, the referral of children with problems to health institutions for full check-up and treatment and the creation of awareness among the community and teachers of health problems among children.

2. Priorities for action in health

166. The following priorities requiring special attention have been identified:

(i) Building a gender focus into every health intervention;

(ii) Strengthening focus on prevention and promotion in interventions;

(iii) Facilitating community involvement, particularly through Panchayati Raj institutions, in water, sanitation and health care projects to ensure community control of health;

(iv) Building up a pool of knowledge through educational interventions and empowering communities to take affirmative action for children's health;

(v) Capacity building for practitioners of indigenous systems of medicine, community based health workers and paramedical workers;

(vi) Ensuring a community focus in the training of medical personnel;

(vii) Building a relevant database for planning policy formulation and monitoring of health services.

B. Other issues relating to survival and development (article 6, paragraph 2)

1. Water and sanitation

167. Article 24 of the Convention recognizes the child's right to clean drinking water and environmental sanitation. The health status of children has a direct link with the availability of safe drinking water and sanitation. Apart from direct benefits in terms of protection from infection, these facilities also free women and children from the burden of carrying water over long distances.

168. With increasing inputs in successive five-year plans, India has been able to provide access to safe drinking water to 74 per cent of families in rural and 85 per cent of families in urban areas. However, there are still a large number of problem villages where there is no source of safe drinking water or which are facing shortage of water.

169. Since 1974/75, water supply and sanitation is one of the components of the minimum needs programme. Prior to this, the national water supply and sanitation programme was introduced in the social welfare sector in 1954. The states gradually built up the public health engineering departments to attend to the problems of water supply and sanitation. Between 1972 and 1974, and again in 1977-78 the accelerated rural water supply programme was introduced to assist the states/Union territories to implement water related schemes in hard-core problem villages, i.e. villages which were not easily accessible.

170. In 1977, the United Nations Water Conference separated the issue of drinking water and sanitation from other water issues to stress the seriousness and magnitude of the problem of drinking water. India supported the resolution seeking to achieve the targets by 1991. Accordingly, the water decade of programme was launched on 1 April 1981 with the target of coverage of the entire population. Since 1986, the National Drinking Water Mission is functioning with the objective of securing implementation of water programmes and their integration with other rural development programmes. The mission has been renamed the Rajiv Gandhi National Drinking Water Mission. The Government of India gives highest priority to the rural water sector through the activities of the Mission and the accelerated rural water supply programme. The norms adopted by the Mission for providing safe drinking water to the rural population are 40 litres of drinking water per capita per day for human beings, 30 lpcd additional water for cattle in desert districts (under the desert development programme), one hand-pump or stand-post for every 250 persons and water sources within 1.6 km in the plains and within 100 m elevation difference in hilly areas.

2. Sanitation

171. Sanitation is a comprehensive concept which includes liquid and solid waste disposal, food hygiene, and personal, domestic and environmental hygiene. Sanitation programmes were introduced in the health sector as early as 1954. With the launching of a decade-long programme in 1981, it was envisaged that by 1991, 25 per cent of the rural population would be provided with sanitation facilities. However, by the end of March 1995, only 19.2 per cent of the rural population could be provided with sanitary latrines. In 1986, the Ministry of Rural Development, the nodal department for coordinating the programme for sanitary latrines, launched a programme to construct one million sanitary latrines in houses for the scheduled caste/scheduled tribe population under the Indira Awas Yojana housing scheme and 250,000 additional latrines in health sub-centres, schools, panchayat-ghars, anganwadis, etc. under the national rural employment programme and the rural landless employment guarantee programme. Since 1986, under the central rural sanitation programme, efforts are also being made to provide sanitary latrines to scheduled caste/scheduled tribe families, people below the poverty line and the general public.

172. In the urban areas, the needs for safe drinking water and adequate sanitation facilities are being taken care of the Ministry of Urban Development. Since 1989/90, a scheme of low-cost sanitation for liberation from scavengers is being implemented through the Housing and Urban Development Corporation (HUDCO). During 1993/94, new schemes were introduced for the conversion of dry latrines and the construction of new sanitary units to eliminate scavengers. Other new programmes are the accelerated urban water supply programme and the solid waste management programme. The Ministry of Urban Development also gives priority to the survival, protection and development of children from low-income urban families. Since 1990/91, a scheme of urban basic services for the poor is being implemented in conjunction with a scheme for environmental improvement of urban slums and Nehru Rozgar Yojana to improve the quality of life of the urban poor. Drinking water supply and environmental sanitation are important components of the scheme.

173. Voluntary agencies like Sulabh International are playing a major role in supplementing government efforts. Sulabh has converted more than 6,00,000 dry toilets into scavenger-free, ecology friendly and stinkless pour flush toilets in 625 towns in 17 states (1992). They also provide expertise in low-cost technologies. Several recent initiatives in the provision of drinking water and sanitation have focused on increasing the involvement of communities, particularly women, in planning, managing and maintaining services. Village water committees have been set up in several areas and have made a significant impact on overall health indicators.

3. Nutrition

174. Nutrition finds a prominent place, in articles 24 and 27 of the Convention. In India, where 32.7 per cent people in the rural areas and 19.4 per cent in the urban (1987/88) fall below the poverty line, malnutrition, which is a by-product of poverty and unemployment, continues to be a major problem. A staggering 250 million Indians suffer from varying degrees malnutrition. It is more acute among infants, pre-schoolchildren and expectant and nursing mothers in poor socio-economic groups. For example, an estimated 30 per cent of all infants born in India are low birth-weight babies. A study in rural areas of a few states reports that 37 per cent of children suffer from mild malnutrition, 43 per cent are moderately affected and 8.7 per cent suffer from extreme forms of malnutrition.

175. Roughly 56 per cent of pre-schoolchildren and almost 50 per cent of expectant mothers in the third trimester of pregnancy suffer from iron deficiency anaemia. All the states of India show prevalence of iodine deficiency. About 200 million people in the country are at risk of iodine deficiency disorders. The prevalence of blindness due to vitamin A deficiency in the country is about 0.04 per cent. Field experiences highlight continuing gender disparity in intra-familial distribution of food. Children continue to be vulnerable to seasonal food shortages, which results in periodic and recurrent malnutrition. Each episode leaves the child more vulnerable, and less able to recuperate.

176. The UNICEF Progress of Nations Report 1995 estimates the percentage of child malnutrition among children under five on the basis of economic and nutritional data. At the present GNP levels, India presents a level of malnutrition (63 per cent) which is more than twice the expected level of 31 per cent. The report suggests that the current levels of malnutrition in India could be halved without changing the economic situation. The Government of India, through various nutrition interventions, has been able to reduce the extent and magnitude of malnutrition among children and women arising mainly from socio-economic deprivation. The number of normal children increased from 5.9 per cent in 1975/79 to 9.9 per cent in 1988/90, according to the National Institute of Nutrition report entitled "National trends in India 1993".

4. Nutrition programmes

177. Various programmes have been launched by the Government to combat the existing levels of malnutrition and also to prevent malnutrition in vulnerable groups. Malnutrition has a direct relation with the prevalence of infectious

diseases. Studies all over the world have shown that an integrated approach involving household food security, dietary improvement, improved infant care practices, infection control, health, education and birth spacing, timing and control leads to an improvement in the nutritional status of children.

178. The most extensive nutrition programme is the Integrated Child Development Services (ICDS) launched in 1975. It has been universalized to become the largest nutrition programme in the world. The programme provides a package of services comprising supplementary nutrition, immunization, pre-school education for children below six years of age, health check-up and referral, immunization for pregnant women, and nutrition and health education for all women in the reproductive age group. Simultaneously, maternal and child health services in the rural areas have been strengthened.

179. A number of evaluation studies have indicated faster decline in infant and child mortality in ICDS project areas. Various initiatives have been taken up to strengthen the delivery system of ICDS with a view to improving the outreach of the programme as well as the quality of services provided to children and mothers.

180. The programmes of the Food and Nutrition Board of the Department of Women and Child Development are also directed towards improving the nutrition of the people through a combination of measures such as nutrition education and extension; development and promotion of nutritious foods; and fortification of foods. The nutrition education activities include nutrition demonstration programmes; training in home-scale preservation of fruits and vegetables; orientation in integrated nutrition education; monitoring supplementary feeding at anganwadis; networking with NGOs for nutrition education and mass media communication; celebration of National Nutrition Week, World Food Day and World Breastfeeding Week.

181. The other nutrition intervention programmes of the Department of Women and Child Development are the special nutrition programme, the Balwadi nutrition programme, the wheat based supplementary nutrition programme, the Tamil Nadu integrated nutrition programme and the mid-day meal programme for schoolchildren. The intervention programmes of the Department of Family Welfare for combating specific nutrition deficiency diseases are the national iodine deficiency disorders control programme, anaemia prevention and control among pregnant women, and prevention and control of vitamin A deficiency among children. A new pilot programme for control of micro-nutrition has also been started in 1995. This covers the important micro-nutrients, namely iron and vitamin A in the entire population of the project districts.

182. The Government of India also adopted the National Nutrition Policy in 1993 to tackle the problem of malnutrition, both through direct nutrition intervention for specially vulnerable groups and through the establishment of various benchmarks for improved nutrition. The nutrition goals in the policy are in consonance with the nutrition goals and objectives of the National Plan of Action.

183. To implement the National Nutrition Policy, a task force for developing a model for a national nutrition surveillance system has been set up. The Inter-Ministerial Coordination Committee set up in the Department of Women and

Child Development is currently engaged in reviewing the nutritional considerations in the related sectors in line with the objectives of the National Nutrition Policy. The Department has also set up a data bank on nutrition to act as a storehouse of all vital information on nutrition available in different sectors. The National Plan of Action on Nutrition has been adopted by India as a follow-up of the National Policy and the International Conference on Nutrition. A National Nutrition Council presided over by the Prime Minister has been constituted to oversee the effective implementation of the National Nutrition Policy.

184. Non-governmental organizations have also tried to ameliorate the existing situation, either by launching programmes on their own or supplementing the Government's efforts. NGO interventions have, by and large, been able to rely on stronger community support and integrated methodologies. Working with communities in a holistic manner, NGO projects have often been able to go beyond simple food supplementation and look into health, sanitation, safe water, child and mother care needs. Long-term and sustainable improvements in nutritional status have been achieved through educating mothers on appropriate nutrition while simultaneously facilitating community involvement in preventive health care.

185. Exclusive breastfeeding for children up to the age of 4-6 months is being actively promoted under the child survival and safe motherhood programme. Messages regarding exclusive breastfeeding and appropriate weaning practices have been incorporated in the training programmes of medical officers and paramedical workers. Recognizing the large hospitals are trend setters in medical practices, the "Baby friendly hospital initiative" has been launched in the country to popularize the concept of exclusive breastfeeding. Under this programme, large hospitals following the 10 steps to successful breastfeeding are certified as "baby friendly hospitals". For the purpose of implementing the initiative, national and state-level task forces have been established. Of the estimated 1,000 large hospitals, 794 hospitals spread all over the country have been certified "baby friendly".

5. Integrated strategy and holistic approach

186. Enhancing economic and food security of families and communities, changing traditional biases in distribution and education and other empowering approaches have important roles to play in controlling malnutrition. The Convention on the Rights of the Child provides a new agenda for involving professionals from the legal, educational and political spheres in joining forces to develop a national framework of entitlement rights, responsibility and accountability in attacking malnutrition in the country.

187. Nutritional well-being can be achieved through delivery of services, capacity-building and empowerment, ensuring the three necessary conditions of food, health and care. Nutritional security not only means that an individual has an acceptable nutritional status today, but also that his or her nutritional well-being is secured in the future. This requires a safe minimum resource base backed up by entitlement. State obligations are being seen in the context of the fulfilment of individual needs and of taking adequate steps to achieve a holistic approach.

188. The family and the community have a direct responsibility for nutrition. The Government, however, is attempting to take adequate steps to ensure access to proper nutrition through revamping the public distribution system and supply of basic food grain requirements to the poor at one half of the normal issue price.

189. There is ample evidence to show that food is only one of the necessary conditions for adequate nutrition, which has to be linked with adequate care for women and children, adequate access to health services and a healthy environment. Services providing nutrition are now increasingly emphasizing an integrated approach focused on ensuring that all these conditions are met through effective coordination and convergence of services at the grass-roots level.

6. Priority areas for action in nutrition

190. In order to improve the nutritional status of children and to achieve the goals set out in the National Plan of Action, the following priorities have been identified for action:

(i) Incorporating an integrated approach in nutrition programmes to ensure simultaneous impact on food security, health care and safe environment;

(ii) Strengthening capacity-building for health and community development workers to facilitate convergence of health, nutrition, water and sanitation and educational interventions at the grass-roots level;

(iii) Building awareness at the community level about health and nutrition issues, and empowering women with preventive and promotive knowledge and skills;

(iv) Setting up frameworks with appropriate indicators for monitoring and evaluation of programmes;

(v) Providing greater allocation of funds and ensuring effective utilization of resources;

(vi) Improving the quantity and quality of services and targeting to reach the under-two age group;

(vii) Promoting involvement of local communities to handle problems related to malnutrition. Local groups can act as a facilitator in optimal utilization of services and in enhancing accountability by community based monitoring carried out by Mahila Mandals and local Panchayat members.

C. Child-care services and facilities (articles 26 and 18)

191. The core principle of the Convention is that every child has the right to thrive, not merely to survive. Early childhood constitutes a vulnerable period in life because infants and young children cannot survive without

the active assistance of adult caretakers. Infants are more vulnerable to developmental retardation, if not permanent damage, from neglect and deprivation. The State has or must have a responsibility for the survival and development of every child born. One may say that the situation of infants in a nation is a good indicator of the extent to which the rights of the child are honoured.

192. Early childhood intervention programmes are an attempt to enhance the course of the child's development. The provision of child-care and development services ensures a safe and stimulating setting in which infants can spend a large part of the day. Supplementary nutrition, health check-up and immunization are also provided. Crèche/day care is expected to provide an environment which is livelier and better than the one the child would have if left alone at home or with immature siblings or aged grandparents.

1. Provision of day care - legal status

193. Article 45 of the Indian Constitution articulates the need to provide for the health, welfare, education and development of all children. Day care for children did not receive an official reference until the New Education Policy in 1986, where the rationale for it was envisaged. The services would also support service for working mothers and free school-age girls from child care, so that they could attend school. Two important reports, Shram Shakti (1988) (National Commission on Self-employed Women and Women in the Informal Sector) and the Ramamurthy Commission report, "Towards an enlightened and humane society" (1990), contain programmes of action in this regard. Finally, the Programme of Action of the National Education Policy 1992 also spells out what needs to be done.

2. Laws on day care

194. Laws for the provision of crèches have been enacted. They are, however, only for the organized sector, factories, mines and plantations, and few women workers benefit, especially since a minimum number of women in the concerned establishment has been stipulated. The Contract Labour Act (1970), the Inter State Migrant Workers Act (1980) and the Bidi and Cigarette Workers Act (1966) have legislative provision for crèches on the same model as in the organized sector.

3. Programmes and services

195. The Government has been concerned about providing child-care services and facilities, so as to prevent child abuse and neglect. The various programmes/schemes that cater to this need are the scheme of crèches/day-care centres for children of working and ailing mothers, the Balwadi nutrition programme and the scheme for construction/expansion of hostel building for working women with a day-care centre.

196. In 1975, the Department of Women and Child Development started a scheme of crèche/day-care centres for children of working and ailing mothers to provide day-care services for children (up to five years of age) of mainly casual, migrant, agricultural and construction labourers, whose total monthly income does not exceed Rs 1,800 per month. The children of these women who

are sick or incapacitated due to sickness or suffering from communicable diseases are also covered under the scheme. The services include supplementary nutrition, health check-up, immunization, etc. The programme is implemented by the Central Social Welfare Board and two other national-level voluntary organizations. During the year 1995/96, 12,470 crèche units provided services to about 30,00,000 children.

197. To meet the ever increasing demand for new crèches, a National Crèche Fund was set up in 1993/94 by the Department of Women and Child Development with a corpus amount of Rs 199 million. This fund is being utilized to set up new crèches, as well as for the conversion of some of the existing anganwadis into anganwadi-cum-crèches. So far 1,243 crèches have been sanctioned under this fund. A National Children's Fund was created in 1979, the International Year of the Child, under the Charitable Endowment Act 1890, to provide financial assistance to voluntary organizations at the national/state/district levels for implementing programmes for the welfare of children, including rehabilitation of destitute children. In 1995/96, 22 projects were sanctioned under the National Children's Fund.

198. Since 1970/71, the Balwadi nutrition programme has been implemented through the Central Social Welfare Board and four national-level voluntary organizations. The basic aim of this programme is to provide supplementary nutrition to children in the age group three-five years attending balwadis/day-care centres. The balwadis also look after the social and emotional development of these children. At present, about 5,641 balwadis are being run in the country, looking after the needs of 225,000 children.

199. In order to promote greater mobility for working women in the employment market, the Department of Women and Child Development started a scheme of construction/expansion of hostel building for working women with a day-care centre in 1973. Under the scheme, single working women who are unmarried/widowed/divorced/separated and married working women whose husbands are out of town, are provided accommodation for five years. Working women with children up to eight years of age are eligible to live in a separate hostel, where day-care facilities are provided for children. So far, these facilities have been provided to 5,907 children in 229 hostels.

200. A people's response to the inadequacy of child-care services was the formation in 1989 of the Forum for Crèche and Child-Care Services (FORCES) in India. The forum is an advocacy group and a network of 50 organizations committed to the care of pre-school children. The demand was primarily for a network of crèches and child-care services for working women of the rural and urban poor. More specific demands were the inclusion of child care under the minimum needs programme and the setting up of a central fund for preparatory work and to meet annual expenditure for child-care services. The strict implementation of laws regarding the provision of child care and an inter-ministerial group to chart out new programmes were also demanded.

4. Gaps in child-care services

201. Young children are seen as the mother's personal and private responsibility. This has been referred to as the three myths that have contributed to the neglect of the young child in the poorest section of

society. The child's membership in a joint family and the availability of concerned adults to address themselves to the needs of the young child is not supported by fact. The second myth is that mothers in India are not "working women", but are full-time housewives. This may be true only of small sections of the population. A large number of women are employed in the formal or informal sectors. The third myth is that child care can be handled by anybody, and that it does not require any specific training. Awareness campaigns to counter these myths have been taken up.

202. The Maternity Benefits Act (1961) applies only to women in establishments. It entitles women to leave from work for three months altogether. This may need modification to a longer period after childbirth. However, in the unorganized sector, it is the State which must ensure maternity benefits, making it incumbent upon employers to share the financial burden.

203. While the National Code for Protection and Promotion of Breastfeeding (1990) and the Regulation of Breastmilk Substitutes (1992) appear to support the right of infants to receive mother's milk, there is no support for the right of the women to breastfeed. The failure to perceive women as both mothers and workers has been harmful to many women, who have lost their jobs to ensure the well-being of their infants.

5. Priority areas for action in child care

204. Some of the concrete steps that have been initiated towards strengthening child care are:

(i) Working for improved facilities including extended leave for nursing mothers;

(ii) Enhancing focus in child-care services on children with special needs;

(iii) Extending outreach, and enhancing quality of child-care services by ensuring minimum standards;

(iv) Improving targeting for the under-three age group;

(v) Focus on the needs of poor women.

D. The disabled child (article 23)

205. Article 23 recognizes the special needs of the disabled child and enjoins on the State the responsibility of ensuring the child's fullest possible integration and development. Article 2 also specifies the inclusion of the disabled child in every other category, with respect to each of the rights enshrined in the Convention.

206. The Convention on the Rights of the Child makes specific mention of disabled children. Disabled children in India, though constituting a distinct group, have been largely marginalized to the periphery of society and public life. The disabled child has specific needs and requires special

interventions which continue through life. In this respect, disabled children are distinct from other groups of children with special needs.

1. The present situation

207. It is estimated that 10 per cent of the population worldwide is disabled. The extrapolation that 35 million Indian children are disabled is considered conservative by many. Most Indian children are disabled because of poverty and its correlates. Protein malnutrition, iodine deficiency and vitamin A deficiency are the major causes of mental retardation and blindness. It is estimated that, among the orthopaedically handicapped, locomotion disability is the most prevalent in the 0-14 age group with at least a 2.4 per cent incidence, the most significant causes being poliomyelitis, cerebral palsy, paralysis, arthritis and amputations; 5 to 7 per cent of children suffer from signs of vitamin A deficiency, with an estimated 60,000 children becoming blind each year; an estimated 6.6 million children are mentally retarded and 2.2 million afflicted with cretinism resulting from iodine deficiency. Developmental delays and mental handicaps are the most under-reported of all disabilities. The National Sample Survey of 1991 estimated that in the 0-14 age group, the incidence of hearing handicap is 1.4 per cent. Of the 4 million persons affected by leprosy one fifth are estimated to be children and about 15 to 20 per cent of cases are with deformities. The available statistics on the incidence of various disabilities are limited and believed to understate the scale of the problem due to the tendency of families to fail to recognize or acknowledge disabilities, especially communication and mental disabilities. Lack of early detection and treatment leads, in most cases, to major and stressful secondary handicaps of physical function, intellectual handicap and social and emotional behavioural problems. The vast majority of disabled children lead lives singularly lacking in stimulation; they know no difference between childhood, maturity or old age.

208. This situation is further exacerbated by the lack of basic services. The few services that exist are mostly in cities and accessed mainly by the middle and upper classes. Rehabilitation strategies focus largely on literacy and academic goals. The few assistive devices produced are suited to the aspirations of financially well-off urban Indians; mass-produced mobility aids are suitable only for urban terrain, and the focus of the aids resource allocation for the visually handicapped is on Braille devices for literacy and academic achievement. An estimated 98 per cent of rural and 95 per cent of urban disabled children have no access to services.

2. Early detection and rehabilitation

209. Rehabilitation services in the country are predominantly focused on children with disability at the primary school level. Early detection is a low priority in spite of the fact that it yields higher returns for investments in intervention. The present failure in early detection and stimulation is leading to preventable and traumatic secondary handicaps. Detection of hearing loss is considerably delayed with ear, nose and throat departments reporting hearing impairment in children at an average age of five to seven years. Considerable hearing is regained if a hearing aid is used with a child under the age of six months, making educational and social

integration, normal language and speech development possible. There is hardly any work at the macro or micro level in early stimulation - a simple and essential preventive strategy which improves the depressed learning ability of malnourished children, and prevents a significant percentage of mild mental handicap being exacerbated by lack of parental interaction.

3. Policies and programmes

210. There are several institutes in India run by government and voluntary agencies for handicapped children. Two hundred agencies for the blind, 150 for the deaf, 150 for the orthopaedically handicapped and 150 for mentally retarded children cater for the needs of a large number of disabled children. In addition 200 associations are engaged in the welfare and rehabilitation of such children.

211. In 1991 alone, through 23 special employment exchanges for handicapped persons and 55 special cells in normal employment exchanges, 307 blind, 287 deaf and 3,997 orthopaedically handicapped persons were given placements.

212. The current emphasis, particularly in the context of the child with disability, is on preventive, promotive strategies coupled with community based rehabilitation (CBR). This has gradually become accepted as the community, institutional and techno-managerial approach to rehabilitation. It is resource intensive and, thus, has limited accessibility and coverage. CBR will not be able to fulfil the requirements of the majority of the disabled as it essentially aims to contain the damage after the event of disability. While the Government of India has accepted the relevance of a CBR approach in the Indian context, the majority of services for the disabled remain concentrated in special institutions and "centres of excellence", which are mostly in urban areas.

213. The enactment of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 is the single most important recent legislation that provides for comprehensive coordinated community based services for children with disabilities. Some voluntary organizations have made a beginning by educating parents, grass-root-level workers and the community by generating awareness on prevention, early identification and referral services for treatment of such disabilities. Some rural development organizations in south India have facilitated the formation of village-level organizations of disabled people. These "Sanghams" have effectively assumed responsibility for the needs of disabled people in those villages. Disabled people have mobilized to take action on their own behalf and to use existing structures to secure services and benefits. The experience of collective strength has been greatly empowering for Sangham members, who have earned a new respect from their communities.

4. Aids and appliances

214. The Rehabilitation Council of India and the National Council for the Handicapped are mainly concerned with the provision of aids and appliances, such as wheelchairs and calipers, manufactured and distributed by the State. These are often the only option available to the rural poor and are mainly designed for use in urban areas with levelled and paved roads. They also

require regular maintenance, which is available only in institutions or urban centres. The Science and Technology Mission on "Application of Technology for the Welfare and Rehabilitation of the Handicapped" exists to encourage research and development of suitable aids for the disabled. For example, simple safety devices for agricultural equipment are being developed by governmental organizations for manufacture.

215. There is need for greater awareness at the macro level of the gap between provision of rehabilitation infrastructure, trained personnel and the needs of the disabled child in India. There is an urgent need for suitable training of the vast number of government field workers so that they are suitably equipped to meet the needs of different communities in vastly varying environments, living mostly in rural and urban slum areas that have the least access to services.

216. A multi-centre study of the district rehabilitation centres scheme administered by the Ministry of Welfare regarding the impact of disability prevention training of auxiliary nurse midwives and other micro-level trainers was carried out in 1989. The study shows that an urban, medico-technology-intensive bias influences training courses. A disturbing recent trend is the strongly commercial motivation developing in many rehabilitation professionals. It is estimated that many physio- and occupational therapists are migrating to other centres. NGOs working for the disabled in urban areas report very high turnover rates in the service.

217. Higher priority would need to be given to disability in financial allocation. Though Rs 2,115 million have been allocated for all programmes on disability in the Eighth Five-Year Plan, this remains inadequate for a population estimated as 10 per cent of the total. The 1986 Education Policy recommends the establishment of special schools for very severely disabled children. The Action Plan suggests one such "Sarvodaya Vidyalaya" for each district, i.e. 400 special schools during the Eighth Five-Year Plan to cover about 15,000 severely disabled children.

218. The Ministry of Welfare implements a scheme which provides financial assistance to voluntary organizations engaged in rehabilitation of disabled persons who are orthopaedically handicapped, hearing handicapped, mentally handicapped or visually handicapped, and also for persons cured of leprosy who have handicaps. Grant-in-aid under the scheme is restricted to 90 per cent of the estimated recurring and non-recurring expenditure and Rs 0.5 million on construction of buildings. During 1992/93 a sum of Rs 960 million was released to 302 voluntary organizations and Rs 770 million was earmarked for 1993/94.

219. Four premier national institutes for visual, orthopaedic, mental and hearing handicaps offer services of training, research and rehabilitation, documentation and information in their respective areas.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Educational policies and programmes

220. More than four decades ago, the Constitution of India made an even bigger commitment. Its article 45 states "The State shall endeavour to provide, within a period of 10 years from the commencement of the constitution, free and compulsory education for all children until they complete the age of fourteen years".

221. The National Policy on Education (NPE), 1986 and the Programme of Action (POA), 1992 have perceived education as fundamental to all-round development of children and stipulates free and compulsory education of satisfactory quality to all children up to 14 years of age before the turn of the century. NPE also emphasizes universal enrolment of children and restates the target as follows:

> "It shall be ensured that all children who attain the age of about 11 years by 1990 will have had 5 years of schooling or its equivalent through the non-formal stream. Likewise, by 1995 all children will be provided free and compulsory education up to 14 years of age."

222. The Policy aims to fulfil the objective of "Education for All" by providing early childhood care and education, universalizing elementary education through formal and non-formal methods, reducing wastage and involving the local community in the management of elementary education. It also gives crucial importance to teachers' performance. Early childhood care and education (ECCE) has been accorded a high priority in NPE. It views ECCE as an important programme in its own right, as it promotes all-round development of children in the age group 0-6 years and prepares them for school. ECCE also gives equal importance to children belonging to underprivileged groups. The major vehicle of ECCE is the ICDS programme.

223. The Department of Women and Child Development is implementing an early childhood education (ECE) programme since 1987/88. The programme seeks to improve the children's communication and cognitive skills as a preparation for entry into primary school. The programme is implemented in the nine educationally backward states i.e. Andhra Pradesh, Assam, Bihar, Jammu and Kashmir, Madhya Pradesh, Orissa, Rajasthan, Uttar Pradesh and West Bengal. Till March 1996, 180 NGOs were being assisted to run 4,365 ECE centres.

224. The Ministry of Welfare provides financial assistance to the children of scheduled castes and scheduled tribes under its pre-Matric scholarship and post-Matric scholarship schemes. The Ministry has also established Book Banks for the benefit of children belonging to such underprivileged sections of society. Under its scheme of upgradation of merit of scheduled castes and scheduled tribes students, the Ministry provides remedial and special coaching in specified areas to these sections with a view to removing their social and educational deficiencies and facilitating their admission to professional courses, such as medical and engineering courses, where entry is based on competitive examinations. Central assistance is also provided to state governments and Union territories for the construction of hostel buildings for boys and girls belonging to scheduled castes and scheduled tribes. In

addition, under its specific schemes the Ministry assists in the establishment of schools in tribal areas, with special attention being given to improving the literacy rates among tribal girls in low literacy pockets.

225. The Department of Education has introduced various programmes to achieve the goal of universalization of elementary education. The programmes in operation are Operation Blackboard, Minimum Levels of Learning, Scheme of Operationalizing Microplanning and Scheme of Non-Formal Education. These programmes aim at bringing about substantial improvement in the facilities and quality of education in primary schools, along with improvement in the level of learning achievement of children. Under the Operation Blackboard scheme, 91 per cent of the primary schools had been covered till 1992/93. Under Minimum Levels of Learning, about 15 NGOs have been identified and projects sanctioned to implement the programme covering 2,000 primary schools. A major initiative of the Education Department has been the District Primary Education Programme (DPEP) which lays emphasis on micro-planning, involvement of communities and gender focus. Initiated in 42 districts in 7 states, DPEP is being expanded to cover all the major states and will be in operation in 110 districts by 1997.

226. The role of non-formal education (NFE) for children in the age group 6-14 years has been recognized since 1964-1966. NFE has been envisaged as an alternative strategy to formal education, playing a complementary role in achieving the goal of universalization of elementary education. The Scheme of Non-Formal Education was launched in 1979-80 and is being implemented in 18 states/Union territories with the aim of providing education comparable with formal schooling for children in the age group 6-14 years. The scheme is particularly focused on school drop-outs, working children, children in habitations without schools and girls who cannot attend formal schools on account of domestic chores. During the year 1994-95, 6.5 million children in 261,000 centres were enrolled under this programme.

227. The major goal of education in the National Plan of Action for Children further strengthens the commitment made in the constitutional provisions and goals of the National Policy on Education. It gives priority to universal enrolment, retention and attainment of minimum levels of learning; reduction of disparities; universalization of effective access to schooling and expansion of early childhood development activities, and universalization of elementary education with focus on the girl child and disadvantaged groups.

228. To implement the National Plan of Action effectively, due emphasis is being given to community mobilization and use of the media to sensitize communities to the need for education and to empower them to ensure accountability of the schools system for their children.

229. All these efforts have resulted in desirable changes in the education indicators. The literacy rate has steadily increased from 18.3 per cent in 1951 (for five years and above) to 52.2 per cent in 1991 (for seven years and above). The sex differentials in the literacy rate however, have remained very pronounced. While the male literacy rate in 1991 was 64.2 per cent, the female literacy rate was 39.2 per cent. There has been a substantial increase in enrolment at all levels. Enrolment in classes I to V has increased from 97.4 million in 1990-91 to 108.0 million in 1993-94, and that in classes VI

to VIII from 34.0 million in 1990-91 to 39.9 million in 1993-94. Till June 1991, 10.4 million children in the age group three-six years had been receiving pre-school education in anganwadis under ICDS projects.

230. There has been some improvement in drop-out rates, but the problem still persists. The measures being adopted for reducing these rates include making the curriculum and teaching process more interesting, and improving the schools in terms of physical facilities and teachers' performance. Midday meal schemes also seem to have positively influenced drop-out rates in some states. As a result, the drop-out rate at primary level has come down from 58.70 in 1980-81 to 36.32 in 1993-94, and that in classes I to VIII to 52.80 (1993-94) from 72.70 (1980-81).

1. Gaps in educational provision

231. The annual report for 1993/94 of the Department of Education states:

> "Despite expansion of education, vast ground is yet to be covered for fulfilling the Constitutional mandate of Universalization of Elementary Education. Drop-out rates are significant; retention of children in schools is low; wastage is considerable. There are striking disparities in access to Elementary Education, disparities between regions, rural and urban areas, boys and girls, the affluent and the deprived and the minorities and the others. The clientele to services in the age group of 6-14 is of the order of 152 million as on 1 March 1991 constituting about 18 per cent of the total population. Of this 51 per cent were boys and 49 per cent were girls."

232. Indian elementary education has become one of the largest education systems in the world. Growth in enrolment during the past decade has brought enrolment rates close to 100 per cent at the primary stage. In the endeavour to increase enrolment and achieve the target of universal elementary education, all state governments have abolished tuition fees in government, local body and aided schools, up to the upper primary level. Girls' enrolment has grown at the primary stage from 5.4 million in 1950-51 to 46.4 million in 1993-94 and at the upper primary stage from 0.5 million to 15.7 million. The drop-out rates of girls at the primary as well as the upper primary stage are higher than those of boys.

2. Availability of schools and teachers

233. The number of primary schools increased from 210,000 in 1950-51 to 537,000 in 1993-94 and the number of upper primary schools increased from 13,000 in 1950-51 to 155,000 in 1993-94. The number of teachers in primary schools increased from 538,000 in 1950-51 to 1,703,000 in 1993-94 and the number of teachers in upper primary schools increased from 86,000 in 1950-51 to 10,30,000 in 1993-94. Yet, almost one third of the primary schools in the rural areas continue to be single teacher schools. Another one third of the rural primary schools have only two teachers each. Many primary schools lack even basic infrastructural facilities essential for any acceptable quality of education.

3. The curriculum

234. The Forty-second National Sample Survey (1986-87) showed that about one third to one half of out-of-school children found school either boring, irrelevant or threatening (fear of failure in examinations). Keeping in view these findings, a number of steps have been taken to strengthen the elementary education curriculum to make it more flexible and responsive to the local needs and environment. The component of skill formation is progressively increased to relate it to the "world of work" which exercises a strong pull on a large number of children after the age of 10 years. Emphasis is being placed on participative modes of learning to encourage activity based learning and exploration, inquiry, creativity and initiative on the part of the students.

4. The concept of minimum levels of learning

235. The concept of minimum levels of learning (MLL) has been introduced with a view to ensuring a child-centred approach to teaching and assessment. Rather than focusing on acquiring competency in the syllabus, MLLs have been designed to ensure that children actually learn in the class. However, there have been several problems with implementation. The MLLs tend to focus on literacy and numeracy, rather than on integrated education. Teachers find the concept difficult to translate into pedagogy. Minimum competencies laid down in MLL are being reworked with a view to taking into account child development parameters. More stress is being placed on training teachers in modern teaching techniques.

5. Teachers and administration

236. The Acharya Ramamurthy Committee report underlines the importance of the role and the status of teachers in the educational process and in society. The teacher is often at the bottom of the administrative hierarchy. There is now more focus on capacity-building and continued training for teachers. District institutes of education and training and State institutes of education and training are being strengthened to enable them to meet this need. Experiments in teacher empowerment like "Shikshak Samakhya" have also been taken up on a limited scale.

6. Allocation of resources

237. The Kothari Commission (1964-66) recommended that the proportions of GNP allocated to education must rise from 2.9 per cent in 1965-66 to 6 per cent in 1985-86. This recommendation was included in the National Policy on Education, 1968. The recommendation was based upon projected economic growth rates which could not be realized. Notwithstanding the fact that the percentage of GNP allocated to education fell far short of the recommended level, spending on education as a share of GNP increased from 2.9 per cent in 1965-66 to 4.0 per cent in 1985-86. After the "Education for All" Summit, India committed itself to ensuring that free and compulsory education of satisfactory quality is provided to all children up to 14 years of age before the twenty-first century. Budgetary provisions of Rs 23.66 billion for the year 1994-95 in respect of the Department of Education have been made.

238. The Government is now committed to earmarking 6 per cent of GDP for education. This is to be achieved by the year 2000. Fifty per cent of these funds will be spent on primary education.

7. Priorities for action in education

239. To overhaul strategies in education and obtain a holistic vision of education, the following activities are being undertaken:

(i) Focusing on the constitutional obligation to provide free and compulsory education for all children, at least up to the age of 14;

(ii) Promoting education as an agent of liberation and social transformation;

(iii) Strengthening the school system and its links with the community;

(iv) Facilitating linkages between early childhood care and primary education;

(v) Involving Panchayati Raj institutions and village education committees in planning, implementation and monitoring of education;

(vi) Increasing domestic resource mobilization;

(vii) Including programmes for women's empowerment as an integral part of all educational interventions;

(viii) Addressing socio-economic factors affecting education;

(ix) Making curricula relevant, meaningful, interesting and linked with life.

B. Leisure and culture (article 31)

240. Not recognized by law, but of paramount importance, is the child's right to a happy fulfilling childhood. The elements for a joyous, enriching and satisfying transition to adulthood are not substantially different from the requirements of adults: freedom from hunger and want, protection from deprivation and disease, the right to individual freedom and expression, mutual respect for culture and the right to leisure.

241. The prospect of economic advancement for some and the compulsion of sheer survival for many, have compelled families to work harder. Even traditional familial and support structures have broken down. The visible losers are obviously children. Working children who are direct participants in the economic growth process are deprived of their childhood. At another level, children of people in the middle income groups often face pressures from parents to perform, deliver and achieve. In urban areas, the pace of

life has quickened and there is less time to devote to the needs of children. In the Indian context, these issues are interningled with developmental and social issues.

1. Leisure and childhood

242. Leisure is one of the key elements of childhood and a basic right. Leisure must be understood as children's own time and space when they can do what they want, in the way that they want. This time should not be misappropriated by education or work. Leisure is not only recuperative but also productive. For children, leisure activities are learning experiences, particularly those which are interactive and participative.

243. In a pluralistic and stratified society like ours it is impossible to find a representative child for whose interest we speak. There is no universal child and no universally accepted idea of leisure or culture. A discussion on this "right" is likely to be inconclusive because it is perforce, non-quantifiable or non-measurable. Children belong to different regions and come from a variety of economic backgrounds; one child's work may well be another child's leisure. There is a close relationship between leisure, in the conventional sense of the term, and affluence. It is, therefore, essential to raise the economic level of the country as a whole and ensure a relatively equitable distribution of wealth, so that the phenomenon of one individual buying leisure at the cost of another person is minimized.

2. Urban settings

244. A casualty of the development process has been leisure for the child. This is particularly apparent in urban areas, due to cramped living conditions and the stress and drudgery of daily existence. Open spaces and physically demarcated areas for leisure have withered away under the pressure of increasing population and increasing urbanization. In big towns, few colonies have green spaces for children to play in. If they do exist, they are accessible only to the children of the relatively privileged. Urban design is today anything but child friendly. Schools, barring a relatively few private schools, cannot afford the luxury of land. The stress of urban life inevitably has an impact on the child. In many major cities today, a growing proportion of children travel considerable distances to and from school. The time taken is at the cost of leisure. Working children sustain not only themselves and their families by their labour, but in many cases the production process itself. In urban environments which are particularly oppressive, there are hardly any specific provisions made for their leisure.

3. Rural settings

245. Here the challenge is even greater, as is the scale. About 75 per cent of our children live in rural areas. While the pace of life is relatively less frantic, the physical infrastructure for organized, constructive leisure does not exist.

246. There has been a tendency to neglect our own heritage of play and sport. The sports which have received public attention and support are borrowed ones. Rural sports have been neglected, and even looked down upon. It is,

therefore, rare for children from a rural environment to progress to even a reasonable level of competence in most sports, unless they have received attention and coaching in an urban milieu. This is not feasible for most rural children.

4. Education and leisure

247. Ideally, the present constructive institutional and structured education should give way to one which is liberal and free, making learning itself more enjoyable and "leisurely". For children, learning is not an activity confined to the space of school or to other formal learning structures. It is, or should be, a continuous learning process involving playing, drawing, enacting, observing, socializing and coping with problem situations. Leisure should, therefore, be an integral part of education.

248. To ensure that a child can indeed exercise his or her right to leisure and culture we will necessarily have to redefine our educational system and ensure that it includes all children. In developing societies like India, old societal mores are being replaced quickly, the pressure to conform and perform is very high and deviance has a very low social acceptability. These pressures have an impact on the child and need to be addressed from the child's point of view. In the absence of substantial change in our educational system, it is possible for us to give our children the right to leisure and culture only in a limited way.

249. Even a slightly different paradigm of learning can make childhood more joyful. If the classroom becomes more participative and interactive the burden of learning will disappear. Children who are currently outside the school system can be brought within it and retained if learning becomes easy, relevant and joyful. It may be possible to provide education and leisure in the same space. The high drop-out rates which have been observed amongst the children of the rural poor, tribal children and girl children are largely due to the uninspiring and completely alien pedagogy which is followed. If the learning process can be made fun, then a child may well consider stepping into school, in her leisure time.

250. Some recommendations of the National Advisory Committee on improving the quality of learning while reducing the burden on school students (Yash Pal Committee) include: encouraging group achievement, decentralization of curriculum framing, and experimentation with pedagogical innovations. These are being attended to at the national and state levels. Early childhood educational institutions should not perpetrate violence on young children in the form of formal teaching of reading, writing and numbers. The burden of the heavy bags of books should be reduced. The problem has, in recent years, been focused on in various forums and remedial measures are being taken to lighten this burden.

5. Facilities for leisure: government and NGOs' role

251. The Department of Youth Affairs and Sports under the Ministry of Human Resource Development recognizes the need of the child to engage himself/herself in sports appropriate to the age of the child. Through its schemes, the Department encourages educational institutions and NGOs to build

infrastructure for sports with financial assistance from the central Government. The national sports federations/associations are also encouraged to hold sub-junior sports championships for which financial assistance is given by the Government of India.

252. The Sports Authority of India, a body under the Department of Youth Affairs and Sports, has also formulated schemes like national sports talent contest schemes where young sportspersons in the age group 8-12 years are identified and placed in various schools under the guidance of sports coaches to develop their talents in sports. The National Policy on Sports as well as the National Policy on Education recommend that sports and games should be compulsory at the school level. The Central Advisory Board on Education had also recommended that physical education be part of the school curriculum. The Department makes all efforts for sports to be widely practised at the school level. To encourage children outside the school system to participate in sports, the Department has formulated schemes of promotion of rural sports. Rural sports clubs are given one time assistance to purchase sports goods and equipment.

253. A new scheme initiated by the Department of Women and Child Development focuses on adolescent girls. It caters for girls in the 11-18 age group who have dropped out of school. It is operative in about 500 ICDS blocks. About 0.45 million girls are being covered by the scheme. The girls receive training in areas of health and nutrition, child care, etc. Balika Mandals have been set up under the scheme where girls meet in groups, discuss their problems, receive some non-formal education and get a chance for recreation and interaction with other adolescent girls.

254. The Bal Bhavan Society, which has a membership of about 25,000 children in Delhi alone and about 2,000 in regional centres, has initiated a number of creative and innovative programmes. Activities range from clay modelling, painting and theatre, puppetry and science activities, to environmental camps, cultural camps and folk art. Time spent by children at the Bal Bhavan centres all over the country cannot but be leisurely and culturally enriching.

255. The National Service Scheme is an important programme for developing community participation and a spirit of service. It has over 1.4 million volunteers in universities and at the plus-2 level. The Bharat Scouts and Guides, the premier organization to promote scouting and guiding has an enrolment of 2.3 million children and fosters among its members a spirit of adventure, love for nature and community spirit. The Department of Youth Affairs and Sports extends financial assistance to these programmes.

256. Some of the work done by NGOs in the field of leisure and culture for children is directed towards children within the school system in the broader context of simplifying education without changing the formal structures themselves. The Shiksha Karmi project in Rajasthan replaces the primary schoolteacher with local youth who are responsible for teaching all the children of the village. Shiksha Karmis have only some formal education but they have enthusiasm and zeal. The Shiksha Karmis have made learning fun. They are assisted by voluntary organizations and resource people, the teaching is rooted in the child's environment and the curriculum is specially designed.

6. The cultural dimension

257. The right to culture implies not just the freedom to preserve one's culture and retain it but, more importantly, the non-imposition of a culture considered to be better or superior. This means a sense of understanding and appreciation amongst children and the people they interact with. Currently, alienation appears to be extremely high in children belonging to both urban and rural milieus. In urban city schools, children face a cultural invasion characterized by gross consumerism. Values and cultural roots are damaged and need to be restored. While we must recognize that the cultures of children in any society are certainly not uniform or homogeneous, coming as they do from different backgrounds, economic strata and communities, we have to ensure that children are not made to feel inferior because of their culture.

258. Textbooks and story books often convey those sentiments which are accepted by society at large. Gender stereotypes and roles are also reinforced through the available reading material and television. Attempts have been made to correct this gender bias in textbooks published by the National Council for Education, Research and Training and other publishing houses. Another area of concern is the increasing violence shown in films and on television. This is likely to lead to more aggressive behaviour amongst children and hence the need to have a valid and meaningful certification system. There is also a need to promote good quality children's films and books. In this regard, a number of organizations are carrying out work, for example the National Centre of Films for Children and Young People, Bombay and the National Book Trust.

259. Both NGOs and the Government are reasonably active in the cultural sphere. Various NGOs work with children in slums and schools and with street children in an attempt to enrich them culturally as well as find an outlet for their creative energies. The Ministry of Human Resource Development provides assistance for strengthening culture and values in education.

7. Priorities of action in leisure and culture

260. In order to fulfil provisions contained in the Convention, the following are the priorities for action:

(i) Protecting children, particularly girls, from pressures of household chores resulting from lack or depletion of basic resources (fuel, fodder, water, etc.), leading to a reduction in leisure time;

(ii) Ensuring inclusion of all children in the formal school system;

(iii) Reducing the "burden of the school-bag" and making learning a joyful experience;

(iv) Developing methodologies for primary education to enable children to learn in their mother tongue and gradually link up with the local language; using innovative teaching methods;

(v) Providing space for recreation and play in schools and neighbourhoods, particularly in urban areas.

VIII. SPECIAL PROTECTION MEASURES

A. Children in emergency situations (articles 22, 38 and 39)

1. Children as political refugees (article 22)

261. More than 3 million people have so far sought political asylum in the country. Tamil refugees from Sri Lanka form the largest group among the refugees. Others who have arrived in the country for political reasons are Tibetans and Bangladeshis, numbering over 1 million. A slow trickle from Myanmar has also commenced. In addition to political refugees, the country is also faced with the problem of illegal migration from Bangladesh.

262. It is reported that 75,000 Sri Lankan refugee children were born in exile in Tamil Nadu over the past 10 years. The refugee children born in exile create repatriation problems for parents opting to go back home. Many of these children were initially refused registration by local officials.

263. The Government's major efforts have been to set up refugee camps for immediate relief and subsequently to arrange for their voluntary repatriation to their home countries. States like Tamil Nadu have taken steps to encourage refugees to voluntarily opt for repatriation.

2. Children in armed conflicts (article 38)

264. As mentioned in the chapter dealing with the age of the child, children are not inducted into the armed forces and hence do not take a direct part in hostilities. However children are often unwitting victims of armed violence. There are 30,000 children orphaned by terrorism in Punjab. Children are the most innocent victims of terrorism. Often, on losing their parents, they are forced to shift continuously from one relative to another. In those cases where they have gone permanently to live with the maternal grandparents, the uncles and aunts do not accept them as they fear that the property rights of their children may be superseded by them. A number of such children reported maltreatment whenever their grandparents were absent. The Government of India has set up a fund to assist children affected by terrorist violence for their rehabilitation. A number of NGOs are also working in this area.

265. Another adverse effect of terrorism is on the education system, with schools closing down and thereby affecting the child's education. There is a high drop-out rate and irregular attendance in schools, even after the crisis is over. The present rate of schools drop-outs in Jammu and Kashmir for example is 48 per cent among boys and nearly 60 per cent among girls. Children, especially teenagers, are often instigated into active involvement in armed conflicts, in violation of article 38.

3. Children facing environmental disasters

266. India is one of the most disaster prone countries in Asia. The Centre for Science and Environment has estimated that during the 1970s, 80 per cent

of the world's victims of drought and 70 per cent of flood victims were living in India. About 35 per cent of the area of the country is drought prone. Cyclones are another form of natural disaster affecting the Indian subcontinent. With increasing industrialization, there has been a rise in the number of disasters due to the release of hazardous waste and toxic chemicals. The Bhopal gas tragedy was a man-made industrial disaster with long-term effects.

267. The survey of people affected by the earthquake in Latur and Osmanabad districts in 1994 by a Joint Action Group of Institutions of Social Work Education, indicated that 55.3 per cent of the deaths in Latur district were of people up to 19 years of age. Of the 1,482 orphans of the earthquake, 211 lost both parents. Disasters can also lead to epidemics. The outbreak of plague is reportedly an outcome of the Latur and Osmanabad earthquake. It affected over 1,500 people and led to mass hysteria, causing people to flee their home towns. Children's health, education and life are seriously affected in these situations. The refugee families also face discrimination wherever they go, thus further affecting the displaced children.

4. Policy and programmes

268. To fight droughts, the Drought Prone Area Programme was started in 1970-71 in chronically affected areas. A national disaster management plan has been mooted at the Centre for Science and Environment. The Environment (Protection) Act of 1986 came into being with the major purpose of preventing industrial hazards.

B. Children in conflict with the law (articles 37, 39 and 40)

269. It would be realistic to speak of "Law in conflict with childhood" rather than of "children in conflict with law", for, more often than not, it is the social and legal systems which deny innocent children their right to development and lead them to anti-social acts and delinquency. Criminal law and procedure have long made concessions to children in a number of areas. These include immunity from criminal responsibility (sections 82 and 83 of the Indian Penal Code), the consent of the child not being treated as proper consent for exemption from guilt (section 90 of the Indian Penal Code), victimization of children subject to heavier penalties, diversion to non-criminal courts in cases of juvenile crime, sentencing to non-criminal sanctions and reformatory sentences on being found guilty, non-application of the death penalty to child convicts, the establishment of separate custodial and correctional institutions and removal of any kind of stigma against them. These have been part of Indian criminal jurisprudence for more than a century. During the past decade the approach of law towards neglected, destitute and delinquent children was further liberalized and rationalized with the enactment of the Children's Act in 1960 and later the Juvenile Justice Act in 1986.

1. Juvenile delinquents

270. Over the years, the process of social development in India not only led to changes in the family structure and values, but has also resulted in an increase in social problems like destitution, and juvenile delinquency. The

Government of India has introduced various legislation and programmes to minimize these social problems. A well planned juvenile justice system is in operation comprising juvenile welfare boards, juvenile courts, observation homes, juvenile homes, special homes and after-care organizations.

271. With a view to provide a uniform pattern of justice to juveniles throughout the country, the Juvenile Justice Act 1986 came into force in 1987. The Act has brought a change in the upper age limit of juveniles (from the earlier age limit of 21 years for both males and females) to 16 years for males and 18 years for females. The Act provides for the care, protection, treatment, development and rehabilitation of neglected and delinquent juveniles, and lays down a uniform legal framework to ensure that no child under any circumstances is lodged in jail or kept in police lock-up. The Act provides for a different approach in the processing of neglected juveniles vis-à-vis that of delinquents. While neglected children are produced before juvenile welfare boards, delinquents are dealt with by the juvenile courts.

272. The Juvenile Justice Act 1986 was enacted to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles and for the adjudication of certain matters relating to, and for the handling of delinquent juveniles. From the point of view of the welfare of children, the Indian statute places children needing protection into two categories: neglected children and delinquent children. Neglected children are placed under the protection of welfare boards. For tackling the problem of delinquent children, children's courts were constituted under the Act.

273. If a juvenile is temporarily or permanently deprived of his or her family environment, he or she is entitled to special protection and assistance provided by the State and alternative care is to be ensured. When searching for appropriate alternative care, due attention is to be paid to giving the juvenile an environment as similar as possible to that in which he/she has previously been living. It has been considered essential to develop conditions that will ensure for the juvenile a meaningful life in the community, which, during that period in life when she or he is most susceptible to deviant behaviour, will foster a process of personal development and education that is as free from crime and delinquency as possible. One of the avowed objectives of the Act is to bring the operation of the juvenile justice system in the country into conformity with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice. These universally accepted principles and standards have been incorporated in various provisions of the Act.

2. Neglected juveniles

274. The Juvenile Justice Act provides an elaborate framework for taking care of neglected and abused children. Children whose parents are unfit or incapacitated to exercise care or control over the juvenile, or who are likely to be abused or exploited for immoral or illegal purposes, are included in the definition of the neglected juvenile. The Act provides for production of neglected juveniles before the juvenile welfare boards constituted under the Act, which function as a bench of magistrates. Keeping in view the facts of each case, the board may order the placement of the neglected child in a

juvenile home, or under the care of a parent, guardian or other fit person, with such person guaranteeing the good behaviour and well-being of the juvenile.

3. Delinquent juveniles

275. Under the Juvenile Justice Act, a juvenile who has committed an offence can be dealt with only by a juvenile court. A juvenile court differs from other courts in its philosophy, objectives and functions. The juvenile court is constituted by qualified magistrates and is assisted by honorary social workers. Special knowledge of child psychology and child welfare is an essential qualification for every member of the court. The proceedings in respect of a juvenile are not public and only specified persons are allowed to attend the proceedings. The disclosure of name, address or other particulars relating to a juvenile which can lead to identification of such juvenile is prohibited.

276. No delinquent juvenile can be tried in the same way as an adult under the court of criminal procedure. A delinquent juvenile can also not be charged and tried with an adult.

277. Under the Act a juvenile cannot be sentenced to death or imprisonment. If the court comes to the conclusion that the child has committed the offence charged with, then it can pass several types of orders ranging from releasing the child on probation of good conduct and placing him under the care of any parent/guardian or fit institution to directing that the juvenile be sent to a special home.

4. Rehabilitation

278. Rehabilitation has been made an integral par of the institutional programmes. Every neglected and delinquent juvenile has not only to be provided accommodation, maintenance and facilities for education, vocational training and rehabilitation but also the facilities for development of his character and necessary training for protecting himself against exploitation. The importance of after-care has been recognized as essential for rehabilitation of the juvenile in the community. The Act provides for the setting up of after-care organizations for juveniles after they leave the juvenile homes or special homes, to help their readjustment, resettlement and rehabilitation as self-reliant, socially useful citizens. Many state governments have established comprehensive after-care schemes, the objectives of which are the following:

(a) To extend help, counselling, guidance, support and protection to all released juveniles whenever necessary;

(b) To help a released juvenile to overcome his mental, social and economic difficulties;

(c) Tc impress upon the juvenile the need to adjust his habits, attitudes, approaches and value schemes on a rational appreciation of social responsibilities and obligation and the requirements of community living;

(d) To help the juvenile to make a smooth adjustment to his post-release environment;

(e) To encourage the juvenile in making satisfactory readjustment with his family, neighbourhood and community;

(f) To assist the juvenile in functioning as a self-reliant, socially useful citizen;

(g) To assist in the process of the juvenile's physical, mental, vocational, economic, social and attitudinal post-release readjustment and ultimate rehabilitation;

(h) To complete in all respects the process of the juvenile's final readjustment, resettlement and rehabilitation.

279. As a follow-up measure contemplated under the Juvenile Justice Act, the Scheme for Prevention and Control of Juvenile Social Maladjustment has been implemented by the Ministry of Welfare since 1986-87 to provide financial support to states/Union territories for setting up or upgrading observation homes/juvenile homes/special homes/after-care organizations and for the training of functionaries.

280. As a result of these efforts, juvenile crime in India has declined over the years and during 1992 accounted for 0.7 per cent of all crimes under the Indian Penal Code. An analysis of sex and age distribution of juveniles apprehended during 1991 indicates that the age group 12-16 years is comparatively more susceptible to criminal activities.

C. Children in situations of exploitation (articles 32-36 and 39)

1. Child labour (article 32)

281. Though undesirable, child labour persists in our country on account of socio-economic compulsions. On account of poverty, many parents send their children to work in order to supplement their income. The income derived from child labour, however meagre, is essential to sustain the family. There is an obvious special distinction between child labour and the exploitation of child labour. It has been assumed that a certain amount non-exploitative child labour will persist in family enterprises. At the same time there are other forms of child employment in hazardous trades, factories and other organized establishments which are reprehensible, rob the young of their childhood and should not be allowed to continue. According to the 43rd round of the National Sample Survey (1987), the number of working children was estimated to be 17 million. The present figure is estimated to be around 20 million.

282. In view of this ground reality, the Government of India while acceding to the Convention on the Rights of the Child made the following declaration:

> "While fully subscribing to the objectives and purposes of the Convention, realizing that certain rights of the child, namely, those pertaining to economic, social and cultural rights can only be progressively implemented in the developing countries, subject to the

extent of available resources and within the framework of international cooperation, recognizing that the child has to be protected from exploitation of all forms, including economic exploitation; noting that for several reasons children of different ages do work in India; having prescribed minimum ages for employment in hazardous occupations and in certain other areas; having made regulatory provisions regarding hours and conditions of employment; and being aware that it is not practical immediately to prescribe minimum ages for admission to each and every area of employment in India - the Government of India undertakes to take measures to progressively implement the provisions of article 32, particularly paragraph 2 (a), in accordance with its national legislation and relevant international instruments to which it is a State party".

2. Policies and programmes

283. The Constitution contains provisions for protection of children from work which is beyond their capacity, or involves long hours of work interfering with their education, recreation, rest and overall physical and mental development. Protection is also available under various industrial acts and labour laws enacted from time to time. The provisions relating to the age for admission to employment, regulation of working hours and conditions of employment and appropriate penalties and sanctions for effective enforcement form part of all the relevant labour and industrial laws. The Factories Act prohibits the employment of children below the age of 14 years and an adolescent (a child between 15 and 18 years of age) can be employed only if he is certified to be fit by a surgeon. It prescribes four and a half hours of work per day for children and prohibits their working during night hours. Provision has also been made for weekly holidays, annual leave and the health and safety of child workers. Penalties have been provided for the contravention of the above-mentioned provisions relating to the employment of children. Similar provisions with minor variations also form part of other labour legislation, like: the Mines Act 1952, the Plantation Labour Act, 1951, the Bidi and Cigar Workers (Conditions of Employment) Act, 1966 and the Merchant Shipping Act, 1958. The Child Labour (Prohibition and Regulation) Act of 1986 prohibits their employment in jobs that are hazardous to their lives and health. Children are also prohibited from working at ports or on railways, picking cinders, and clearing ash pits where their safety is jeopardized. They are prohibited from working in industries such as bidi-making, carpet-weaving, cement manufacture, bag making, cloth printing, dyeing and weaving, the manufacture of matches, explosives and fireworks, mica-cutting and splitting, shellac manufacture, soap manufacture, tanning, wool-cleaning and the building and construction industry. It prohibits engaging children in night shifts, making them work in more than one shift, prevents their working near dangerous machinery, handling hazardous chemicals etc. The Act regulates the working conditions of children in all occupations and processes where their employment is not prohibited. The Act also ensures that they have adequate hours of rest and holidays.

284. A number of other initiatives and programmes have been undertaken during the past decade or so, with the basic objective of dealing with the problem of child labour. The formulation of a National Policy on Child Labour, 1987, the enactment of the Child Labour (Prohibition and Regulation) Act 1986, the

setting up of a Task Force on Child Labour and the ratification of the Convention on the Rights of the Child have all formed a part of this process. The Ministry of Labour formulates, coordinates and implements policies and programmes for the welfare of child labourers. It provides grants to voluntary organizations which run projects for their rehabilitation through non-formal education, health care and supplementary nutrition. Grants are also provided for seminars and research to identify further areas for appropriate action.

285. The National Policy on Child Labour, formulated in 1987. Apart from requiring enforcement of legal provisions to protect the interests of children, envisages focusing general development programmes for the benefit of child labourers and project-based plans of action in areas of high concentration of child labour. Under the project action plan of the Policy, national child labour projects have been set up in different areas to rehabilitate child labourers. A major activity undertaken is the establishment of special schools to provide non-formal education, vocational training, supplementary nutrition etc., to children withdrawn from employment.

286. The drive for the elimination of child labour received further impetus after the announcement of a new programme in August 1994 for the rehabilitation of children working in hazardous occupations. Under the programme an estimated 2 million children are to be withdrawn from employment and put in special schools to enable them to become productive members of society. For the year 1995-96, the budget allocation of Rs 3.44 million was utilized for funding projects to rehabilitate child labourers working in hazardous occupations. So far, 76 projects have been sanctioned under the programme to cover around 150,000 working children. In 123 districts where child labour is endemic funds have been allocated to carry out surveys to identify child labourers engaged in hazardous occupations. The surveys will be preceded by an exercise to categorize occupations according to degree of hazard, in order to cover children engaged in the most hazardous occupations on a priority basis. The total amount released for carrying out surveys is Rs 24.6 million. A massive awareness generation campaign was launched at the central level through major national dailies. During 1995-96, a total of Rs 66.5 million was also released for awareness generation activities at the district level in 133 districts. For the year 1996-97, an allocation of Rs 560 million has been made for child labour related programmes.

287. India has been participating in the International Programme on the Elimination of Child Labour (IPEC) launched by the ILO in 1991. For the two bienniums 1992-93 and 1994-95, the allocation for India under IPEC was US$ 3.65 million (over Rs 110 million). The allocation for the year 1996 is US$ 0.5 million (approximately Rs 17.5 million). Altogether 104 projects with an outlay of Rs 110 million are under different stages of implementation. The total number of children covered by these projects is 76,329.

288. The number of working children covered by the special schools is miniscule compared to the total number of children waiting to be released and rehabilitated. Evidently, the goal cannot be reached in one stroke. Considering the magnitude of the problem and the paucity of the resources - human, material and financial - a sequential, gradual but integrated approach has been adopted. A modest beginning has been made in terms of

conceptualization, planning and operationalization of the few National Child Labour Projects during the years 1994-95 and 1995-96. These efforts will be consolidated in the coming years with a view to converting working children into productive and participating members of society.

3. Supportive strategy

289. Child labour is a problem that is basically economic in nature, hence legislation alone is not likely to remove it. Poverty, illiteracy, the existence of large families leading to the reduction of land-holdings to uneconomic sizes, landlessness, lack of skills to earn a livelihood are some of the reasons for children being sent out to work. To contain and reduce the problem, more avenues for adult employment in rural areas need to be created. While India is committed to complete eradication of child labour, our immediate efforts are focused on ensuring prevention of child employment in hazardous occupations.

290. The formal education system, which has often been criticized as ill-designed, unresponsive to the needs of working children, irrelevant in terms of equipping children for socially productive activities, and a poor alternative for children of families engaged in traditional crafts is being remodelled through various initiatives. Children need to be retained in the education system for as long as possible. In a country like India, where the bulk of the population is linked to the rural and agrarian sectors, the system of education needs to be remodelled to suit such needs. Rural schools should have the flexibility to reabsorb a child if he drops out, have holidays during peak seasons of agricultural activity, adjust timings to suit the convenience of students and have special subjects of relevance to local needs.

291. Recently, the Government announced its commitment to the elimination of child labour from all occupations and industries and to making primary education a fundamental right. There are also experiences to show that withdrawal of children from the labour market through mass enrolment in schools receives support from parents and communities. These developments will contribute significantly to efforts for the elimination of the evils of child labour from society.

4. Recent Supreme Court judgements on child labour

292. The Supreme Court, in its decision reported in 1993 (I SCC, p. 645, Unni Krishnan J.P. and Others Vs. State of Andhra Pradesh and Others), in paragraph 172 of the judgement emphasized the need for the free and compulsory education for all children until the age of 14 years in accordance with the policy envisaged in articles 45, 46 and 41 of the Constitution of India. In another recent decision, dated 10 December 1996 (reported in 1969 (9) Scale, p. 42 - M.C. Mehta Vs. State of Tamil Nadu and Others), the Supreme Court inter alia reiterated its earlier decision concerning free and compulsory education up to the age of 14 years and also directed that the employer who employs a child in contravention of the provisions of Child Labour (Prohibition and Regulation) Act, 1986 shall pay as compensation a sum of Rs 20,000 per child, which would be deposited in a fund known as the Child Labour Rehabilitation-cum-Welfare Fund. The Supreme Court also directed that in those cases where it would not be possible to provide a job to an adult

family member in lieu of a child, the appropriate government would, as its contribution, deposit in the aforesaid Fund a sum of Rs 5,000 for each child employed in a factory or mine or in any other hazardous employment. The Fund so generated shall form a corpus whose income shall be used only for the concerned child. Further, in another decision, dated 18 December 1996 (in WP(C)4677 of 1985, M.C. Mehta Vs. Union of India and Others) regarding child labour in Delhi, the Supreme Court inter alia directed the employer found to have employed child labour, to pay compensation as assessed by the Labour Commissioner, Delhi and, in default of payment thereof, the same would be recovered as arrears of land revenue.

293. To give effect to the Supreme Court directions, the Ministry of Labour in the Government of India convened a meeting of the National Authority on Elimination of Child Labour on 31 December 1996 at which the various implications of the Supreme Court order were discussed and a line of action proposed. Consultations with the state governments have also begun, with the holding of a conference of the state labour ministers, labour secretaries and labour commissioners on 22 January 1997 to formulate a concrete action plan to give effect to the Supreme Court directions regarding withdrawal of working children from hazardous occupations and their rehabilitation, and improvement of the working conditions of children working in non-hazardous occupations.

D. Child abuse (articles 34 and 35)

294. Child abuse and neglect within the family have been highlighted as a part of advocacy under the Convention. Another obligation of significance that has been included is safeguarding children from sexual exploitation and abuse, and action to prevent the abduction and sale of children in any form. At the same time, the Convention assigns the primary responsibility to both parents for children's upbringing. In India, child abuse is increasingly coming out into the open and is drawing more attention, concern and condemnation. There is also an acknowledgement of the importance of a specific focus on the problems of children, especially of girl children, related to their abuse and neglect.

295. Traditionally, the family and community in India have been insular, authoritarian and patriarchal, with parents/guardians/caretakers having full rights over their children to treat them in whichever way they deem fit. Traditional child rearing practices accept physical force or punishment as a means of disciplining. Child beating and corporal punishment by the parents/guardians or even teachers are considered to be in the "interest of the child".

296. The term "child abuse" encompasses a broad range of maltreatment of children. Various attempts to define child abuse have not achieved consensus. There is also no consensus about its various forms, which can include child battering, extreme punishment, hard labour, emotional abuse, sexual abuse, including incest and exploitation, and abandonment. There are inadequate data with regard to child abuse. However, statistics of children admitted to institutions owing to abandonment or after running away from home of children apprehended under the Juvenile Justice Act, and of cases of exploitation and victimization, as well as the increasing population of child beggars and

reports of minor girls becoming victims of prostitution and of sexual assaults, indicate that child abuse remains a serious problem in the country.

1. Physical violence and sexual abuse

297. Child battering and physical injury by parents, teachers and others in authority is very much relevant in India as observed by social workers and reported in the newspapers. Sexual abuse of the child is defined as any sexual relation between an adult and a child. Its legal definition includes child molestation, incest and rape. It is the least reported form of child abuse, despite its high incidence and the fact of its occurring in all economic and ethnic groups. Some estimates show that in 30 to 50 per cent of incidents, the offenders are family members, close relatives, neighbours or friends, and 80 per cent of the children concerned know their attackers.

298. According to the report of the National Crime Records Bureau, "Crime in India" (1994), the number of child rape victims in the age group 0-10 and 10-16 years increased from 1988 to 1991, but declined in 1992. Out of 301 cases reported in all the Union territories, Delhi recorded 276 (19.7 per cent) cases while Lakshadweep has the unique distinction of being free from this form of crime. The incidence of rape, torture and sexual harassment recorded increased in 1994 over the previous year, while cases of kidnapping, abduction and molestation declined.

2. Policy and provisions

299. The National Policy for Children, 1974 states that "children shall be protected against neglect, cruelty and exploitation". The National Decadal Plan of Action for the Girl Child (1991-2000 A.D.) recognizes the rights of the girl child to protection from exploitation, assault and physical abuse. The Plan aims to utilize intervention strategies to sensitize various agencies on the need to protect the girl child from assault and physical abuse and exploitation, and adolescent girls from prostitution and rape, through legislation, proper enforcement and speedy legal remedies through family courts (Family Courts Act, 1984) and special courts.

300. Though the National Policy on Education 1986, recommends "firm exclusion" of corporal punishment of children in schools, it is found to be continuing as all state education acts and rules have not banned corporal punishment in schools. The Indian Penal Code considers the following as serious offences: kidnapping or maiming a child for the purposes of begging (Section 363-A), selling a child for the purposes of prostitution (Section 372-373), exposure and abandonment of a child under 12 years by parents or persons having care of the child (Section 317) and sexual harassment (Section 509). Child prostitution and child rape are also covered. The Juvenile Justice Act has provisions for protection from and punishment of cruelty and indignity to children, as also for care, protection and rehabilitation of neglected and abused children. The Immoral Traffic Prevention Act, 1956 (amended) deals with the punitive as well as the preventive aspects of prostitution, including child prostitution.

301. Rape is covered under sections 375 and 376 of the Indian Penal Code (1860). The offences of kidnapping and abduction for different purposes

are covered by sections 363 to 373. Sexual intercourse with a woman with or without her consent when she is under 16 years of age amounts to rape and the offender is punishable with imprisonment for life (section 375). The National Commission for Women, a statutory and autonomous body constituted by the Government of India under the Department of Women and Child Development has prepared a draft ordinance with the aim of raising the age of consent (majority) from 16 years to 18 years, so as to bring it into line with international conventions. The proposed bill is under the consideration of the Government.

302. Procedural details are great hurdles in the speedy trial of cases of child rape. It is estimated that for cases in which trials were completed, only 41.5 per cent ended in conviction during 1990, 34.2 per cent in 1991 and 33.8 per cent in 1992. Thus, the percentage of acquittals in such cases is showing an upward trend over the years. The rate of disposal of cases in the courts was 23.9 per cent in 1990, 18.6 per cent in 1991 and 18.1 per cent in 1992. On an average 80 per cent of the cases remained pending.

303. The Supreme Court has directed the state governments immediately to implement the provisions of the Indian Penal Code on the issue of child rape in a strict manner, in particular the provision that the act of sexual intercourse with a child (below the age of 16 years) with or without her consent should be treated as an offence of rape under section 375 of the Penal Code. In the procedure of conviction, this responsibility is transferred to the police. In this process the offender often manipulates acquittal. There are numerous cases to support this observation. The three major changes that have been brought about in the legislation and in the evidence aspect of child rape are:

The definition of rape to include oral penetration in the meaning of sexual penetration;

The onus of proof of not committing rape is now on the rapist; and

The section on "corsent or no consent" has been made irrelevant.

3. Child prostitution

304. Prostitution in India has manifested itself in various forms with varying degrees of social sanction. There is now increasing concern about children being inducted for commercial purposes into the trade and becoming subjects of shocking sexual abuse and sexual diseases. There are no reliable statistics available about the number of prostitutes - least of all about child prostitutes - but according to newspaper reports there are around 0.4 million prostitutes. Reports and some studies on prostitutes and prostitution point out that there are some social groups and communities in various pockets of the country in which family based prostitution is traditionally practised, but statistics about their numbers are also not available. No estimates are available even about the number of child Devadasis and Joginis, though these systems have been traditionally in existence as a socially sanctioned form of exploitation of women, particularly those from lower socio-economic groups in the states of Karntaka, Maharashtra and Andhra Pradesh. With the aim of curbing child prostitution and

rehabilitating child prostitutes, an expert committee has been formed by the National Commission for Women. More police personnel as well as judges are being sensitized through seminars and workshops on this issue.

305. The Supreme Court of India in "Public Interest Litigation" in 1990 on the subject of child prostitution directed that the central and state governments should set up advisory committees to suggest measures to be taken to eradicate child prostitution. The Government of India has accordingly constituted a Central Advisory Committee which includes representatives of the Ministries of Welfare, Home Affairs, Legal Affairs, the National Commission for Women, the National Institute of Social Defence, the Indian Council of Child Welfare, the Association for Social Health in India and three voluntary organizations. A subcommittee was constituted to frame recommendations/a plan of action for legal and non-legal approaches for the rescue and rehabilitation of child prostitutes. The plan of action has been finalized and accepted. The implementation machinery is being set up.

4. Legal provisions

306. The Government of India enacted the Suppression of Immoral Traffic in Women and Girls Act, 1956. In 1986 this Act was amended and provided enhanced penalties for offences involving children and minors. It continued to prohibit prostitution in its commercialized form without rendering prostitution per se an offence. Along with contemplating specialized machinery for enforcement, the Act envisages a comprehensive scheme for rescue, protection and treatment of prostitutes.

307. The substantive law also has several provisions which have a bearing on curbing conditions responsible for prostitution. The Indian Penal Code includes among sexual offences punishable by law procurement of minor girls (section 366 A), importation of minor girls from a foreign country (section 366 B), selling minors for purposes of prostitution (section 372), buying minors for the purpose of prostitution (section 373). The Juvenile Justice Act, 1986 has elaborated provisions for the care, protection, treatment, education, vocational training, development and rehabilitation of children rescued from those procuring, inducing and taking persons for the sake of prostitution.

308. The various provisions of the Immoral Traffic Prevention Act, 1986 are to be enforced through the local police. As the police already have many duties relating to the general criminal law, they have not been effective in taking action under the Act. There are reports also about protection money being paid by prostitutes/brothel keepers to the local mafia and also to the local police. This, along with vested interests, ensures the continuance of this exploitative system. There is a need for special police officers to be assigned for proper coordination between the enforcement and the welfare machineries.

E. Drug abuse (article 33)

309. Drug abuse and drug trafficking have become a global phenomenon. Various studies reveal that teenage children are falling prey to drug abuse knowingly or unknowingly. The Government of India has adopted a two-pronged

strategy to tackle the problem of drug abuse, consisting of supply control and demand reduction. The supply control aspect is taken care of by various central agencies like Customs, Excise, the Central Bureau of Narcotics, the Central Bureau of Investigation, etc. and State agencies like the police State Excise, drug controllers' organizations, etc. The Narcotics Control Bureau, established under section 4 of the Narcotics Drugs and Psychotropic Substance Act, 1985 coordinates action taken by various departments and agencies in matters relating to drug abuse control. It is the implementing authority in respect of various international conventions on drugs. The Ministry of Welfare has been given the responsibility for the social welfare and educational aspects of drug addiction.

310. The Narcotics Control Bureau is considering a proposal to amend the Narcotics Drugs and Psychotropic Substances Act to protect children from illicit use of drugs and to award the highest level of punishment in the following situations: when minors are affected by the offence or minors are used for commission of the offence, and when the offence is committed in an educational institution or social service facility or in their immediate vicinity or in other places to which schoolchildren and students resort for educational, sports and social activities.

311. To achieve the above objectives, a scheme of assistance to voluntary organizations for prohibition and drug abuse prevention has been formulated. In this scheme grant-in-aid to the extent of 90 per cent of the total approved expenditure is allocated to the voluntary organizations for the provision of a variety of services through setting up counselling centres, de-addiction centres, after-care centres, de-addiction camps and organizing awareness generation programmes.

312. The fundamental principle that a juvenile delinquent, more so a juvenile drug addict, requires protective custody and not punitive custody has been recognized. Protective measures have been incorporated in the legislation and are being further strengthened.

313. A lot of work is being done on social awareness through the mass media, including the traditional medium of puppet shows, street plays and television programmes and advertisement, pamphlets, hoardings, handouts, booklets etc. The work of sensitizing and creating social awareness, especially among children, has been taken up as a part of advocacy under the Convention.

1. Drug abuse control (demand reduction)

314. In addition to the above supply reduction measures, a strategy is also being formulated to bring about demand reduction through anti-drug campaigns and particularly through the National Master Plan for Drug Abuse Control. This is an outcome of close cooperation between the Ministry of Welfare, the Ministry of Health and Family Welfare and the Narcotics Control Bureau, with financial assistance from the United Nations Drug Control Programme.

2. Coordination Committee of Secretaries

315. A Narcotics Coordination Committee of Secretaries has been functioning with representation at Secretary level from the Ministry of Home Affairs, the

Ministry of Welfare, the Ministry of Health and Family Welfare and the Ministry of Finance, in order to obtain a holistic view of the problem of narcotics control and take suitable measures in this regard.

IX. CONCLUSION

316. The preceding chapters have presented the situation of children in India with reference to the provisions contained in various articles of the Convention. India now has infrastructure available for translating the Convention's provisions into reality in a phased manner, despite there being gaps in provisions available to the Indian Child under many articles.

317. The efforts in the field of child development are a testimony to the Government of India's commitment to the cause of children. These mandates have resulted in planning of appropriate actions aimed at child-centred development, where children are not just recipients of the benefits of services and programmes but the focus of development itself.

318. The National Plan of Action for children is an important tool for the Government to monitor the progress of its own commitment. Concerted measures are being taken to achieve targets within the stipulated time-frame. Some of the goals are well within reach, while in the case of others much more needs to be done. With competitive demands from other sectors, resource scarcity is going to impose a serious constraint in achieving goals. Optimal utilization and mobilization of internal and external resources is thus being attempted. The measures to be adopted for achieving these goals require multi-pronged strategies to be initiated simultaneously. The process has already begun; it includes sharpening of strategies, strengthening of the implementation process, convergence of services, coordination and decentralization of development activities.

319. Unless the life of the child in the family and community improves, all development efforts would be meaningless. There is, therefore, a need to raise awareness and create an ethos of respect for the rights of the child in society to meet his/her basic developmental needs. Advocacy and social mobilization are two crucial processes which are being emphasized to achieve this end. Our aim is thus to empower the younger generation to assert their basic rights. With India's ratification of the Convention on the Rights of the Child, the right approach to child development is gradually gaining importance and will henceforth form the basis of the Government's strategy towards child development.